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Rules and Regulations

Federal Register
Vol. 66, No. 133
Wednesday, July 11, 2001

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–188–AD; Amendment 39–12315; AD 2001–14–05]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, and –800 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing Model 737–600, –700, –700C, and –800 series airplanes. This action prohibits installation of repairs of the elevator tab using previously approved repair procedures. This action is necessary to prevent installation of repairs of the elevator tab that are outside allowable limits, which could result in excessive in-flight vibrations of the elevator tab, and consequent loss of controllability of the airplane.

DATES: Effective July 26, 2001.

Comments for inclusion in the Rules Docket must be received on or before September 10, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–188–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–188–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2028; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received numerous reports of in-flight vibrations of the elevator tab on Model 737–600, –700, and –800 (''Next Generation'') series airplanes. These vibrations have been attributed to loose or missing components of the elevator tab assemblies, excessive wear of the elevator tab, excessive tab freeplay, and/or tab weight and center of gravity changes.

In addition, we have determined that repairs of the elevator tab done using certain procedures approved before the effective date of this AD can adversely affect the weight and center of gravity of the elevator tab. Such changes in the tab weight and center of gravity can cause excessive in-flight vibration of the elevator tab. Therefore, updated limitations on repair procedures are necessary to ensure the reliability of the elevator tab in flight. Continued operation of these airplanes in such conditions could result in excessive in-flight vibrations of the elevator tab, and consequent loss of controllability of the airplane.

Explanation of Service Information

The FAA has reviewed Boeing All Operator Message M–7200–01–00756, Revision 1, dated May 29, 2001, which describes allowable repair limits for the elevator tab. Repair limits include, but are not limited to, the following:

- Repair can only be one facesheet (upper or lower skin) and honeycomb core in depth.
- Repair of damaged honeycomb core by potting is not permitted.
- Maximum size of damage (allowable damage) that may be sealed using aluminum foil tape is 1 inch in diameter.
- Maximum damage size that could be repaired using 150 degree or 200 degree wet layup is .5 inch across the largest dimension.
- No 250 degree prepreg repairs are permitted.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent installation of repairs that are outside allowable limits of the elevator tab, which could result in excessive in-flight vibrations of the elevator tab, consequent loss of the elevator tab, and loss of controllability of the airplane. This AD prohibits installation of certain repairs of the elevator tab.

Interim Action

This is interim action. The FAA is working with the manufacturer to identify proper action to ensure that unsafe conditions do not exist on airplanes that were repaired before the effective date of this AD. If a corrective action for the existing repairs is necessary, the FAA may consider further rulemaking in this regard.

The manufacturer also has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons

are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

• Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.

• For each issue, state what specific change to the AD is being requested.

• Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–188–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–14–05 Boeing: Amendment 39–12315. Docket 2001–NM–188–AD.

Applicability: All Model 737–600, –700, –700C, and –800 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent installation of repairs of the elevator tab that are outside allowable limits, which could result in excessive in-flight vibrations of the elevator tab, and consequent loss of controllability of the airplane, accomplish the following:

Elevator Tab Repairs

(a) As of the effective date of this AD, no person shall install on any airplane any elevator tab repairs that are NOT done in accordance with Boeing All Operator Message M–7200–01–00756, Revision 1, dated May 29, 2001.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Effective Date

(d) This amendment becomes effective on July 26, 2001.

Issued in Renton, Washington, on July 2, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17121 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–205–AD; Amendment 39–12317; AD 2000–06–13 R1]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200, –200C, –300, and –400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Boeing Model 737–200, –200C, –300, and –400 series airplanes, that currently requires repetitive visual and high frequency eddy current (HFEC) inspections to detect cracking of the corners of the door frame and the cross beams of the aft cargo door, and corrective actions, if necessary. That amendment also mandates accomplishment of a modification to the aft cargo door, which would terminate the repetitive inspection requirements. This amendment revises the compliance time for the terminating modification. The actions specified by this AD are intended to prevent fatigue cracking of the corners of the doorframe and the crossbeams of the aft cargo door, which could result in rapid depressurization of the airplane.

DATES: Effective August 15, 2001.

The incorporation by reference of Boeing Alert Service Bulletin 737–52A1079, Revision 6, dated November 18, 1999, as listed in the regulations, was approved previously by the Director of the Federal Register as of May 9, 2000 (65 FR 17583, April 4, 2000).

The incorporation by reference of Boeing Service Bulletin 737–52–1079, Revision 5, dated May 16, 1996, as listed in the regulations, was approved previously by the Director of the Federal Register as of December 24, 1998 (63 FR 67769, December 9, 1998).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Blilie, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–2028; telephone (425) 227–2131; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 2000–06–13, amendment 39–11654 (65 FR 17583, April 4, 2000); which is applicable to certain Boeing Model 737–200, –200C, –300, and –400 series airplanes; was published in the **Federal Register** on October 5, 2000 (65 FR 59381). The action proposed to continue to require repetitive visual and high frequency eddy current (HFEC) inspections to detect cracking of the corners of the door frame and the cross beams of the aft cargo door, and corrective actions, if necessary. The action also proposed to continue to mandate accomplishment of a modification to the aft cargo door, which would terminate the repetitive inspection requirements. However, the action proposed to revise the compliance time of the terminating action.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed rule.

Request for Clarification of Note 4

One commenter requests clarification of Note 4 of the proposed rule. That note states, ''Modification of the corners of the door frame and the cross beams of the aft cargo door accomplished prior to the effective date of this AD in accordance with Boeing Service Bulletin 737–52–1079, dated December 16, 1983; Revision 1, dated December 15, 1988; Revision 2, dated July 20, 1989; Revision 3, dated May 17, 1990; or Revision 4, dated February 21, 1991; is considered acceptable for compliance with paragraph (e) of this AD.'' The commenter states that certain repair angles installed per those service bulletins may have been installed with inadequate edge margin, and the commenter questions whether repair angles installed without cracks but with inadequate edge margin are acceptable for compliance with paragraph (e) of this AD. Furthermore, the commenter notes that Revision 6 of the service bulletin, dated November 18, 1999, requires that certain repair angles installed with a short edge margin be repetitively inspected, and questions whether these repetitive inspections would be required by the proposed AD.

The FAA does not concur that any change to Note 4 of this AD is necessary. To be acceptable for compliance with paragraph (e) of this AD, the modification of the corners of the door frame must have been properly installed according to the referenced service bulletins. To properly install any repair or modification, all fastener edge margins must meet normal rework requirements which are explicitly stated in the Boeing Structural Repair Manual and other service information. If the edge margins for an installation of the terminating modification are not adequate, as specified in the service bulletin, then the repetitive inspections identified in the service bulletin would be necessary for the modification to be considered to have been accomplished ''in accordance with the service bulletin.'' No change to the final rule is necessary in this regard.

Explanation of Editorial Change

In paragraph (d) of the proposed rule, an editing error resulted in that paragraph including a compliance time of ''Within 4,500 flight cycles or one year after the effective date of this AD.'' The paragraph should have referenced the effective date of AD 2000–06–13, which is May 9, 2000. Therefore, paragraph (d) of this final rule has been revised to correct this error and specify a compliance time of 4,500 flight cycles or 1 year after May 9, 2000.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,636 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 707 airplanes of U.S. registry are affected by this AD. This AD adds no new requirements, but only extends a compliance time for an action already required by AD 2000–06–13. Thus, this AD adds no new additional economic burden on affected operators, other than the cost of additional repetitive inspection cycles if operators elect to accomplish the modification at a later compliance time as allowed by this AD. The current costs associated with this amendment are reiterated in their entirety (as follows) for the convenience of affected operators:

The detailed visual inspections currently required by AD 2000–06–13 take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these currently required inspections on U.S. operators is estimated to be $84,840, or $120 per airplane, per inspection cycle.

The HFEC inspections currently required by AD 2000–06–13 take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these inspections on U.S. operators is estimated to be $169,680, or $240 per airplane, per inspection cycle.

The modification currently required by AD 2000–06–13 takes approximately 144 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts cost approximately $4,530 per airplane. Based on these figures, the estimated cost impact of this modification on U.S. operators is estimated to be $9,311,190, or $13,170 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is

determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11654 (65 FR 17583, April 4, 2000), and by adding a new airworthiness directive (AD), amendment 39–12317, to read as follows:

2000–06–13 R1 Boeing: Amendment 39–12317. Docket 2000–NM–205–AD. Revises AD 2000–06–13, Amendment 39–11654.

Applicability: The following airplane models, certificated in any category.

Model 737–200 and –200C series airplanes, line numbers 6 through 873 inclusive; Model 737–200, –200C, –300, and –400 series airplanes; line numbers 874 through 1642 inclusive; equipped with an aft cargo door having Boeing part number (P/N) 65–47952–1 or P/N 65–47952–524; excluding:

1. Those airplanes on which that door has been modified in accordance with Boeing Service Bulletin 737–52–1079; or

2. Those airplanes on which the door assembly having P/N 65–47952–524 includes four straps (P/N's 65–47952–139, 65–47952–140, 65–47952–141, and 65–47952–142) and a thicker lower cross beam web (P/N 65–47952–157).

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the corners of the doorframe and the cross beams of the aft cargo door, which could result in rapid depressurization of the airplane, accomplish the following:

Restatement of the Requirements of AD 2000–06–13

Inspections and Corrective Actions

(a) Within 90 days or 700 flight cycles after December 24, 1998 (the effective date of AD 98–25–06, amendment 39–10931), whichever occurs later, perform an internal detailed visual inspection to detect cracking of the corners of the door frame and the cross beams of the aft cargo door, in accordance with Boeing Service Bulletin 737–52–1079, Revision 5, dated May 16, 1996; or Boeing Alert Service Bulletin 737–52A1079, Revision 6, dated November 18, 1999.

(1) If no cracking is detected, accomplish the requirements of either paragraph (a)(1)(i) or (a)(1)(ii) of this AD.

(i) Repeat the internal visual inspection thereafter at intervals not to exceed 4,500 flight cycles. Or

(ii) Prior to further flight, modify the corners of the doorframe and the crossbeams of the aft cargo door in accordance with the service bulletin. Accomplishment of such modification constitutes terminating action for the repetitive inspection requirements of paragraph (a)(1)(i) of this AD.

(2) If any cracking is detected in the upper or lower cross beams, prior to further flight, modify the cracked beam in accordance with Part I of the Accomplishment Instructions of the service bulletin. Accomplishment of such modification constitutes terminating action for the repetitive inspection requirements of paragraph (a)(1)(i) of this AD for the repaired beam.

(3) If any cracking is detected in the forward or aft upper door frame, prior to further flight, repair the frame and modify the corners of the door frame of the aft cargo door, in accordance with Part I of the Accomplishment Instructions of the service bulletin, except as provided by paragraph (b) of this AD. Accomplishment of such modification constitutes terminating action for the repetitive inspection requirements of paragraph (a)(1)(i) of this AD for the upper doorframe.

Note 2: Cracks of the forward or aft upper door frame, regardless of length, must be repaired prior to further flight in accordance with Part I of the Accomplishment Instructions of the service bulletin.

(4) If any cracking is detected in the forward or aft lower door frame, prior to further flight, replace the damaged frame with a new frame, and modify the corners of the door frame of the aft cargo door, in accordance with Part I of the Accomplishment Instructions of the service bulletin. Accomplishment of such modification constitutes terminating action for the repetitive inspection requirements of paragraph (a)(1)(i) of this AD for the lower doorframe.

(b) Where Boeing Service Bulletin 737–52–1079, Revision 5, dated May 16, 1996; or Boeing Alert Service Bulletin, 737–52A1079, Revision 6, dated November 18, 1999; specifies that certain repairs are to be accomplished in accordance with instructions received from Boeing, this AD requires that, prior to further flight, such repairs be accomplished in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA.

Inspections and Corrective Actions

(c) If any cracking of the outer chord of the upper or lower cross beams of the aft cargo door is detected as a result of any inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Seattle ACO; Boeing Alert Service Bulletin 737–52A1079, Revision 6, dated November 18, 1999; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(d) Within 4,500 flight cycles or 1 year after May 9, 2000 (the effective date of AD 2000–06–13, amendment 39–11654), whichever occurs later: Perform a high frequency eddy current inspection (HFEC) to detect cracking of the four corners of the door frame of the aft cargo door, in accordance with the procedures specified in Boeing 737 Nondestructive Test Manual, Part 6, Chapter 51–00–00 (Figure 4 or Figure 23); or Boeing Alert Service Bulletin 737–52A1079, Revision 6, dated November 18, 1999.

(1) If no cracking of the corners of the doorframe of the aft cargo door is detected, repeat the HFEC inspections thereafter at intervals not to exceed 4,500 flight cycles until accomplishment of the modification specified in paragraph (e) of this AD.

(2) If any cracking of the corners of the door frame of the aft cargo door is detected, prior to further flight, replace the damaged frame with a new frame, and modify the four corners of the door frame, in accordance with Parts II and III of the Accomplishment Instructions of Boeing Service Bulletin 737–52–1079, Revision 5, dated May 16, 1996; or Boeing Alert Service Bulletin 737–52A1079, Revision 6, dated November 18, 1999. Accomplishment of such modification constitutes terminating action for the repetitive inspection requirements of paragraph (d)(1) of this AD for that doorframe.

Requirement Revised by This AD

Terminating Action

(e) Within 4 years or 12,000 flight cycles after the effective date of this AD, whichever occurs later: Modify the four corners of the door frame and the cross beams of the aft cargo door, in accordance with Part II of the Accomplishment Instructions of Boeing Service Bulletin 737–52–1079, Revision 5, dated May 16, 1996; or Boeing Alert Service Bulletin 737–52A1079, Revision 6, dated November 18, 1999. Accomplishment of that modification constitutes terminating action for the repetitive inspection requirements of this AD.

Note 3: Accomplishment of the modification required by paragraph (a) of AD 90–06–02, amendment 39–6489, is considered acceptable for compliance with paragraph (e) of this AD.

Note 4: Modification of the corners of the door frame and the cross beams of the aft cargo door accomplished prior to the effective date of this AD in accordance with Boeing Service Bulletin 737–52–1079, dated December 16, 1983; Revision 1, dated December 15, 1988; Revision 2, dated July 20, 1989; Revision 3, dated May 17, 1990; or Revision 4, dated February 21, 1991; is considered acceptable for compliance with paragraph (e) of this AD.

Alternative Methods of Compliance

(f)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 98–25–06, amendment 39–10931, are approved as alternative methods of compliance with this AD.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(h) Except as provided in paragraphs (b), (c), and (d) of this AD, the actions shall be done in accordance with Boeing Service Bulletin 737–52–1079, Revision 5, dated May 16, 1996; or Boeing Alert Service Bulletin 737–52A1079, Revision 6, dated November 18, 1999.

(1) The incorporation by reference of Boeing Alert Service Bulletin 737–52A1079, Revision 6, dated November 18, 1999, was approved previously by the Director of the Federal Register as of May 9, 2000 (65 FR 17583, April 4, 2000).

(2) The incorporation by reference of Boeing Service Bulletin 737–52–1079, Revision 5, dated May 16, 1996, was approved previously by the Director of the Federal Register as of December 24, 1998 (63 FR 67769, December 9, 1998).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on August 15, 2001.

Issued in Renton, Washington, on July 2, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17118 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–228–AD; Amendment 39–12311; AD 2001–14–01]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200 Series Airplanes Modified by Supplemental Type Certificate SA1727GL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 757–200 series airplanes modified by Supplemental Type Certificate (STC) SA1727GL, that requires deactivation of the air-to-ground telephone system approved by that STC. This action is necessary to prevent the inability of the flight crew to remove power from the telephone system when necessary. Inability to remove power from the telephone system during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Effective August 15, 2001.

ADDRESSES: The information referenced in this AD may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Chicago Aircraft Certification Office, 2300 East Devon, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Wess Rouse, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117C, Chicago Aircraft Certification Office, 2300 East Devon, Des Plaines, Illinois 60018; telephone (847) 294–8113; fax (847) 294–7380.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 757–200 series airplanes modified by Supplemental Type Certificate (STC) SA1727GL was published in the **Federal Register** on March 2, 2001 (66 FR 13183). That action proposed to require deactivation of the air-to-ground telephone system approved by that STC.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Explanation of Change to Final Rule

Paragraph (b) of the proposed rule states that ''no person shall install an [in-flight entertainment system (IFE)] system in accordance with STC SA1727GL * * *'' The FAA finds that, where we used the generic term ''IFE system,'' we should have used the more specific term ''air-to-ground telephone system.'' Therefore, we have revised paragraph (b) of this final rule for clarity.

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

Because the STC holder is no longer in business, the FAA is unable to determine how many U.S.-registered Boeing Model 757–200 series airplanes modified by STC SA1727GL will be affected by this AD.

For an airplane subject to this AD, it will take approximately 3 work hours per airplane to accomplish the required actions, at an average labor rate of $60 per work hour. Required parts will cost approximately $35 per airplane. Based on these figures, the cost impact of this

AD is estimated to be $215 per affected airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–14–01 Boeing: Amendment 39–12311. Docket 2000–NM–228–AD.

Applicability: Model 757–200 series airplanes modified by Supplemental Type Certificate (STC) SA1727GL, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability of the flight crew to remove power from the telephone system when necessary, accomplish the following:

Deactivation

(a) Within 18 months after the effective date of this AD, deactivate the In-Flight Phone Corporation air-to-ground telephone system approved by STC SA1727GL. Accomplish the deactivation in accordance with the procedures in paragraphs (a)(1), (a)(2), (a)(3), (a)(4), and (a)(5) of this AD.

(1) Remove the circuit breakers listed in the following table:

Number	Label	Location
CB9012 ...	ATG Phone Bus.	P11–2 Overhead Cockpit.
CB9013 ...	CSU	P37 Right Miscellaneous Electrical Equipment Panel.
CB9014 ...	RFU	P37 Right Miscellaneous Electrical Equipment Panel.
C340	C340	P70 Miscellaneous Electrical Equipment Panel.
C341	C341	P70 Miscellaneous Electrical Equipment Panel.

(2) Remove wire between circuit breaker C340 and C334 bus connection in P70 Miscellaneous Electrical Equipment Panel.

(3) Remove wire between circuit breaker C340 and C1292 bus connection in P70 Miscellaneous Electrical Equipment Panel.

(4) Remove wire between circuit breaker CB9012 and C560 in P11–2 Overhead Cockpit panel.

(5) Cap and stow any remaining wires associated with the circuit breakers listed in the table above.

Spares

(b) As of the effective date of this AD, no person shall install an air-to-ground telephone system in accordance with STC SA1727GL, on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Chicago ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Effective Date

(e) This amendment becomes effective on August 15, 2001.

Issued in Renton, Washington on June 29, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17155 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–231–AD; Amendment 39–12313; AD 2001–13–03]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–30 Series Airplanes Modified by Supplemental Type Certificate ST00054SE

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–10–30 series airplanes modified by Supplemental Type Certificate (STC) ST00054SE, that requires removal of the in-flight entertainment (IFE) system installed by that STC. This action is necessary to prevent inability of the flight crew to remove power from the IFE system when necessary. Inability to remove

power from the IFE system during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Effective August 15, 2001.

ADDRESSES: The information referenced in this AD may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen S. Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all McDonnell Douglas Model DC–10–30 series airplanes modified by Supplemental Type Certificate (STC) ST00054SE was published in the **Federal Register** on March 2, 2001 (66 FR 13189). That action proposed to require removal of the in-flight entertainment (IFE) system installed by that STC.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

As explained in the proposed rule, the STC holder has informed the FAA that the subject IFE system has been removed from all affected McDonnell Douglas Model DC–10–30 series airplanes modified by STC ST00054SE. Therefore, the FAA expects that there will be no future cost impact on U.S. operators as a result of the adoption of this rule.

However, if an airplane subject to this AD is identified, the FAA estimates that removal of the IFE system will take approximately 12 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD on an affected airplane is estimated to be $720 per airplane.

The cost impact figure discussed above is based on information that the subject IFE system has been removed from all affected airplanes. The cost impact figures discussed in most AD actions are based on assumptions that no operator has yet accomplished any of the requirements, and that no operator would accomplish those actions in the future if the AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–14–03 McDonnell Douglas: Amendment 39–12313. Docket 2000–NM–231–AD.

Applicability: Model DC–10–30 series airplanes modified by Supplemental Type Certificate (STC) ST00054SE, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability of flight crew to remove power from the in-flight entertainment (IFE) system when necessary; which, during a non-normal or emergency situation, could result in inability to control smoke or fumes in the airplane flight deck or cabin; accomplish the following:

Removal of IFE System

(a) Within 18 months after the effective date of this AD, remove the IFE system installed by STC ST00054SE by a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. For a removal method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Spares

(b) As of the effective date of this AD, no person may install an IFE system by STC ST00054SE on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a

location where the requirements of this AD can be accomplished.

Effective Date

(e) This amendment becomes effective on August 15, 2001.

Issued in Renton, Washington, on June 29, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17154 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–146–AD; Amendment 39–12320; AD 2001–14–09]

RIN 2120–AA64

Airworthiness Directives; Cessna Model 560XL Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Cessna Model 560XL airplanes. This action requires inspection of certain electrical wiring of the landing light switch, associated components, and the aft J-box fairing light relay wire for chafing, discoloration, or damage; rerouting of certain wiring; and corrective follow-on actions, if necessary. This action is necessary to prevent shorting to the ground of the electrical power due to chafing of wiring, which could result in electrical fire in the wiring of the landing light switch, associated components, and the wiring of the aft J-box fairing light relays. This action is intended to address the identified unsafe condition.

DATES: Effective July 26, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 26, 2001.

Comments for inclusion in the Rules Docket must be received on or before September 10, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–146, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–146–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Raymond Johnston, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4151; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: The FAA has received a report of an electrical fire on the left landing light switch on the cockpit pedestal of a Cessna Model 560XL airplane. Investigation revealed that a wire bundle was burned approximately eight inches below the landing light switch and that the switch was overheated and damaged. The investigation also revealed that wires from KZ041 in the J-box (a terminal located below the mounting plate for power relays) had shorted to the battery bus. The findings of the investigation indicated that incorrect routing of certain wiring had resulted in chafing of certain wiring. Such chafing of wiring could cause shorting to the ground of the electrical power and result in electrical fire in the landing light switch, associated components, and the wiring of the aft J-box fairing light relays.

Explanation of Relevant Service Information

The FAA has reviewed and approved Cessna Alert Service Letter (ASL) ALS560XL–33–02, dated May 4, 2001, which describes procedures for a visual inspection to detect any chafing, discoloration, or damaged wiring of the right KZ032 and left KZ–41 light relays and any associated components, and procedures for routing the light relay wiring correctly. For any wiring or associated components that are chafed, discolored, or damaged, the ASL provides procedures for accomplishing additional follow-on inspections of certain switch assemblies and associated wiring, and replacement of any discrepant wiring or associated components. Accomplishment of the actions specified in the ASL is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent shorting to the ground of the electrical power due to chafing of wiring, which could result in electrical fire in the wiring of the landing light switch, associated components, and the wiring of the aft J-box fairing light relays. This AD requires accomplishment of the actions specified in the ASL described previously.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

• Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.

• For each issue, state what specific change to the AD is being requested.

• Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–146–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–14–09 Cessna Aircraft Company: Amendment 39–12320. Docket 2001–NM–146–AD.

Applicability: Model 560XL airplanes, serial numbers –5002 through –5159 inclusive, –5161, and –5165; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent shorting to ground of the electrical power due to improper routing of certain wiring, which could result in electrical fire in the wiring of the landing light switch, associated components, and wiring of the aft J-box fairing light relays; accomplish the following:

Inspection for Chafing, Discoloration, or Damaged Wiring

(a) Within 20 flight hours or 20 days after the effective date of this AD, whichever occurs first, perform a general visual inspection for any chafed, discolored or damaged wiring of the right KZ032 and left KZ–41 light relays and any associated components, per Cessna Alert Service Letter 560XL–33–02, dated May 4, 2001. If no discrepancy to the wiring or associated components is detected, before further flight, reroute the wiring of the aft J-box relay, per the alert service letter.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

If any Discrepant Wiring is Detected

(b) If any chafing, discoloration, or damage is detected in the wiring or the associated components as a result of the inspection required by paragraph (a) of this AD, before further flight, accomplish the requirements of paragraphs (b)(1), (b)(2), and (b)(3) of this AD, per Cessna Alert Service Letter 560XL–33–02, dated May 4, 2001.

(1) Replace the aft J-box fairing light relay wiring with new wiring and reroute the wiring.

(2) Perform a general visual inspection for any discoloration or damage of the right SC054 and left SC055 switch assemblies A3–212–01 and associated wiring. Before further flight, replace any damaged or discolored wiring or switch assembly with new wiring or a new switch assembly.

(3) Perform a general visual inspection for damage or discoloration of wiring specified in paragraph 11 of the Accomplishment Instructions of the alert service letter. Before further flight, replace any damaged or discolored wiring with new wiring.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Cessna Alert Service Letter ASL560XL–33–02, dated May 4, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on July 26, 2001.

Issued in Renton, Washington, on July 3, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17164 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–214–AD; Amendment 39–12328; AD 2001–14–17]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Airbus Model A300 B2 and B4 series airplanes. This action requires a one-time inspection to detect and correct corrosion of the lower bulkhead attachment, and corrective action, if necessary. This action is necessary to detect and correct corrosion of the lower bulkhead attachment, which could result in reduced structural integrity of the rear pressure bulkhead and consequent damage to components of the flight control, hydraulic, and auxiliary power unit fuel systems. This action is intended to address the identified unsafe condition.

DATES: Effective July 26, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 26, 2001.

Comments for inclusion in the Rules Docket must be received on or before August 10, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–214–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–214–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Airbus Model A300 B2 and B4 series airplanes. The DGAC advises of the reported failure of the rear pressure bulkhead on an Airbus Model A300 series airplane during flight, which led to rapid cabin decompression. The rupture occurred at the junction between the pressure bulkhead and the fuselage/frame 80. The main damage was circumferential on the inner and outer rim attachment angles from stringers 48LH to 34RH. The airplane had accumulated approximately 50,000 total flight hours and 25,000 total flight cycles. The initial investigation revealed heavy corrosion on the inner and outer rim attachment angles, which extended underneath the sealant bead covering the junction. The exact cause and sequence of this bulkhead failure is under investigation. Undetected corrosion in this area of the lower bulkhead attachment could significantly affect the structural integrity of the rear pressure bulkhead. This condition, if not corrected, could result in damage to components of the flight control, hydraulic, and auxiliary power unit fuel systems.

Explanation of Relevant Service Information

Airbus has issued All Operators Telex (AOT) A300–53A0361, dated June 14, 2001. The AOT describes procedures for a one-time detailed visual inspection (including the removal of sealant from stringer 27LH to stringer 27RH) to detect corrosion in the area between the cleat profile and the inner rim attachment angle of the lower bulkhead attachment, and repair if necessary. The DGAC classified this AOT as mandatory and issued French telegraphic airworthiness directive 2001–245(B), dated June 16, 2001, to ensure the continued airworthiness of these airplanes in France.

The AOT refers to Airbus Service Bulletin A300–53–217, Revision 4, dated January 14, 1997, as an additional source of service information for accomplishment of the inspection. The AOT additionally specifies that the sealant be removed before the inspection, which is not specified in the service bulletin.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to detect and correct corrosion of the lower bulkhead attachment, which could result in reduced structural integrity of the rear pressure bulkhead and consequent damage to components of the flight control, hydraulic, and auxiliary power unit fuel systems. This AD requires accomplishment of the actions specified in the AOT described previously, except as discussed below.

Differences Between AD and AOT

Operators should note that, although the AOT implies that the manufacturer may be contacted for disposition of certain repair conditions, this AD requires the repair of those conditions to be accomplished in accordance with a method approved by either the FAA or the DGAC (or its delegated agent). In light of the type of repair required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this AD,

a repair approved by either the FAA or the DGAC is acceptable for compliance with this AD.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket 2001–NM–214–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–14–17 Airbus Industrie: Amendment 39–12328. Docket 2001–NM–214–AD.

Applicability: All Model A300 B2 and B4 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion of the lower bulkhead attachment, which could result in reduced structural integrity of the rear pressure bulkhead and consequent damage to components of the flight control, hydraulic, and auxiliary power unit fuel systems, accomplish the following:

Inspection

(a) At the applicable time specified by paragraph (a)(1) or (a)(2) of this AD: Perform a detailed visual inspection (including the removal of sealant from stringer 27LH to stringer 27RH) to detect corrosion between the cleat profile and the inner rim attachment angle of the lower bulkhead attachment, in accordance with Airbus All Operators Telex (AOT) A300–53A0361, dated June 14, 2001. Perform applicable repair at the applicable time specified by and in accordance with the AOT, except as required by paragraph (b) of this AD.

(1) For airplanes inspected within a year before the effective date of this AD in accordance with Airbus Service Bulletin A300–53–217, Revision 4, dated January 14, 1997, and for which no corrosion was detected: Inspect within 4 weeks after the effective date of this AD.

(2) For airplanes not identified in paragraph (a)(1) of this AD: Inspect within 2 weeks after the effective date of this AD.

Note 2: The AOT refers to Airbus Service Bulletin A300–53–217, Revision 4, dated January 14, 1997, as an additional source of service information for accomplishment of the inspection required by paragraph (a) of this AD.

Note 3: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(b) If corrosion is found during the inspection required by this AD, and the AOT indicates that operators are to contact Airbus for appropriate action: Repair in accordance with a method approved by either the Manager, International Branch, ANM–116,

FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) Except as required by paragraph (b) of this AD: The actions shall be done in accordance with Airbus All Operators Telex A300–53A0361, dated June 14, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in French telegraphic airworthiness directive 2001–245(B), dated June 16, 2001.

Effective Date

(f) This amendment becomes effective on July 26, 2001.

Issued in Renton, Washington, on July 3, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17165 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 270 and 274

[Release No. IC–25058; File No. S7–21–99]

RIN 3235–AH56

Treatment of Repurchase Agreements and Refunded Securities as an Acquisition of the Underlying Securities

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is adopting a new rule and related rule amendments under the Investment Company Act of 1940 that affect the ability of investment companies to invest in repurchase agreements and pre-refunded bonds under the Act. The final rule codifies and updates staff positions that have permitted investment companies to ''look through'' counterparties to certain repurchase agreements and issuers of municipal bonds that have been ''refunded'' with U.S. government securities and treat the securities comprising the collateral as investments for certain purposes under the Act.

EFFECTIVE DATE: August 15, 2001.

FOR FURTHER INFORMATION CONTACT: Hugh Lutz, Attorney, or Martha B. Peterson, Special Counsel, Office of Regulatory Policy, at (202) 942–0690, Division of Investment Management, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549–0506.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today is adopting new rule 5b–3 [17 CFR 270.5b–3] and conforming amendments to rules 2a–7 [17 CFR 270.2a–7] and 12d3–1 [17 CFR 270.12d3–1] under the Investment Company Act of 1940 [15 U.S.C. 80a] (''Investment Company Act'' or ''Act'').[1]

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Executive Summary

Repurchase agreements provide investment companies (''funds'') with a convenient means to invest excess cash on a secured basis, generally for short periods of time. In a typical fund repurchase agreement, a fund enters into a contract with a broker, dealer, or bank (the ''counterparty'' to the transaction) for the purchase of securities. The counterparty agrees to repurchase the securities at a specified future date, or on demand, for a price that is sufficient to return to the fund its original purchase price, plus an additional amount representing the return on the fund's investment.

The Commission is adopting rule 5b–3, which permits a fund, subject to certain conditions, to treat a repurchase agreement as an acquisition of the underlying collateral in determining whether it is in compliance with (i) the investment criteria for diversified funds set forth in section 5(b)(1) of the Act[2] and (ii) the prohibition on fund acquisition of an interest in a broker-dealer in section 12(d)(3) of the Act.[3] Rule 5b–3 also provides for similar ''look-through'' treatment for purposes of section 5(b)(1) of the Act in the case of an investment in state or municipal bonds, the payment of which has been fully funded by escrowed U.S. government securities.

The new rule codifies and updates staff interpretive and no-action letters. It is intended to adapt the Act to economic realities of repurchase agreements and pre-refunded bonds and reflects recent developments in bankruptcy law protecting parties to repurchase agreements.

[1] Unless otherwise noted, all references to rule 2a–7 or rule 12d3–1, or to any paragraph of those rules, will be to 17 CFR 270.2a–7 and 17 CFR 270.12d3–1, respectively.

[2] 15 U.S.C. 80a–5(b)(1).

[3] 15 U.S.C. 80a–12(d)(3).

I. Background

Repurchase agreements provide funds with a means to invest idle cash at competitive rates for short periods. While a repurchase agreement has legal characteristics of both a sale and a secured transaction, economically it functions as a loan from the fund to the counterparty, in which the securities purchased by the fund serve as collateral for the loan and are placed in the possession or under the control of the fund's custodian during the term of the agreement.[4]

Two provisions of the Act may affect a fund's ability to invest in repurchase agreements. Section 12(d)(3) of the Act generally prohibits a fund from acquiring an interest in a broker, dealer, or underwriter. Because a repurchase agreement may be considered to be the acquisition of an interest in the counterparty, section 12(d)(3) may limit a fund's ability to enter into repurchase agreements with many of the firms that act as counterparties.[5] Section 5(b)(1) of the Act limits the amount that a fund that holds itself out as being a diversified investment company may invest in the securities of any one issuer (other than the U.S. Government). This provision may limit the amount of repurchase agreements that a diversified fund may enter into with any one counterparty.

A fund investing in a properly structured repurchase agreement looks primarily to the value and liquidity of the collateral rather than the credit of the counterparty for satisfaction of the repurchase agreement. In two separate no-action positions issued in 1979 and 1980, the staff stated that, for purposes of sections 12(d)(3) and 5(b)(1) of the Act, a fund may treat a repurchase agreement as an acquisition of the underlying collateral if the repurchase agreement is ''collateralized fully.''[6] Because most repurchase agreements are collateralized fully by highly liquid U.S. government securities, this ''look-through'' treatment allowed funds to treat repurchase agreements as investments in government securities. As a result, a fund could invest in repurchase agreements with the same counterparty without the limitations of section 12(d)(3) or 5(b)(1).[7]

On September 23, 1999, the Commission issued a release proposing to codify and update these staff no-action positions.[8] We proposed new rule 5b–3 that would permit a fund, under certain circumstances, to look through repurchase agreements to the underlying securities for purposes of sections 5(b)(1) and 12(d)(3) of the Act. The proposed rule included conditions for looking through a repurchase agreement that were substantially similar to the conditions governing ''look-through'' treatment for money market funds under rule 2a–7 for purposes of complying with the rule's diversification requirements.[9] We also proposed to codify a 1993 staff no-action position that permits funds, under certain conditions, to look through pre-refunded bonds to the escrowed government securities for purposes of the section 5(b)(1) diversification requirements.[10] Finally, we proposed to eliminate a note to rule 12d3–1, which makes the rule's limited exemption from section 12(d)(3) of the Act unavailable for repurchase agreements, including those that were not collateralized fully.

The Commission received letters from four commenters on the Proposing Release, including the Investment Company Institute, which supported adoption of the rule.[11] We are adopting rule 5b–3, amendments to rule 2a–7, and amendments to rule 12d3–1, with certain changes suggested by these commenters.

II. Discussion

A. Qualifying Repurchase Agreements

New rule 5b–3(a) allows funds to treat the acquisition of a repurchase agreement as an acquisition of the underlying securities for purposes of sections 5(b)(1) and 12(d)(3) of the Act if the obligation of the seller to repurchase the securities from the fund is ''collateralized fully.''[12] A repurchase agreement is ''collateralized fully'' if: (i) The value of the underlying securities (reduced by the costs that the fund reasonably could expect to incur if the counterparty defaults) is, and at all times remains, at least equal to the agreed resale price;[13] (ii) the fund has perfected its security interest in the collateral; (iii) the collateral is maintained in an account of the fund with its custodian or a third party that qualifies as a custodian under the Act;[14] (iv) the collateral for the repurchase agreement consists entirely of: (A) Cash items; (B) U.S. government securities; (C) securities that at the time the repurchase agreement is entered into are rated in the highest category by the

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[4] *See* Treatment of Repurchase Agreements and Refunded Securities as an Acquisition of the Underlying Securities, Investment Company Act Release No. 24050 (Sept. 23, 1999) [64 FR 52476 (Sept. 29, 1999)] (''Proposing Release''), at n.4 and accompanying text.

[5] With minor exceptions, section 12(d)(3) prohibits an investment company from purchasing or otherwise acquiring ''any security issued by or any other interest in the business of any person who is a broker, a dealer, [or] is engaged in the business of underwriting.'' The staff has taken the position that fund repurchase agreements with banks that are engaged in a securities-related business, including dealing in government securities, may be subject to the prohibitions of section 12(d)(3). *See* Letter from Gerald Osheroff, Associate Director, Division of Investment Management, to Matthew Fink, General Counsel, Investment Company Institute (May 7, 1985).

[6] In 1979, the staff announced that it would not recommend enforcement action under section 12(d)(3) if the repurchase agreement was ''structured in a manner reasonably designed to collateralize fully the investment company loan.'' Investment Company Act Release No. 10666 (Apr.18, 1979) [44 FR 25128 (Apr. 27, 1979)] (''Release 10666''). The following year, the staff applied this no-action position to a fund's compliance with the diversification requirements of section 5(b)(1) of the Act. MoneyMart Assets, Inc., SEC No-Action Letter (Sept. 3, 1980).

[7] Repurchase agreements with broker-dealers affiliated with the fund would, of course, continue to raise serious questions under sections 17(a) and 17(d) of the Act [15 U.S.C. 80a–17(a), 15 U.S.C. 80a–17(d)]. *See* Release 10666, *supra* note 6, at n.24.

[8] *See* Proposing Release, *supra* note 4.

[9] In 1996, when the Commission amended rule 2a–7, we tied the availability of ''look-through'' treatment to the preferred treatment given to repurchase agreements under the Bankruptcy Code and related insolvency statutes. *See* Revisions to Rules Regulating Money Market Funds, Investment Company Act Release No. 21837 (Mar. 21, 1996) [61 FR 13956 (Mar. 28, 1996)]. Proposed rule 5b–3 included similar requirements. In addition, we proposed conforming amendments to rule 2a–7 so that it would be consistent with rule 5b–3.

[10] T. Rowe Price Tax-Free Funds, SEC No-Action Letter (June 24, 1993). In the letter, the Division of Investment Management agreed not to recommend any enforcement action if a fund treated an investment in municipal bonds refunded with escrowed government securities as an investment in the government securities for purposes of section 5(b)(1). This no-action position was based on certain representations, including that (1) the deposit of the government securities was irrevocable and pledged only to the debt service on the original bonds, (2) payments from the escrow would not be subject to the preference provisions or automatic stay provisions of the Bankruptcy Code, and (3) no fund would invest more than 25 percent of its assets in the pre-refunded bonds of any single municipal issuer.

[11] The commenters included two trade associations, one investment adviser, and a bank. The comment letters are available in the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. (File No. S7–21–99).

[12] Rule 5b–3(a). A fund may only look through only that portion of the repurchase agreement that is collateralized fully. Any agreement or portion of an agreement that is not collateralized fully would be treated as a loan by the fund to the counterparty. Use of rule 5b–3(a) is optional: even if a fund can look through the repurchase agreement, it may choose to look to the counterparty rather than the underlying securities in meeting the diversification requirements of section 5(b)(1).

[13] The term ''resale price'' is defined in rule 5b–3(c)(7) as the acquisition price paid to the seller plus the accrued resale premium, *i.e.,* the return on investment specified in the agreement.

[14] We have revised this element of the rule to clarify that the collateral would have to be held by a custodian, or third party, in an account of the fund.

''Requisite NRSROs';[15] or (D) unrated securities that are of comparable quality to securities that are rated in the highest rating category by the Requisite NRSROs, as determined by the fund's board of directors or its delegate; and (v) the repurchase agreement qualifies for an exclusion from any automatic stay of creditors' rights against the counterparty under applicable insolvency law in the event of the counterparty's insolvency.

1. Acceptable Types of Collateral

New rule 5b–3 specifies the types of collateral that may be used to ''collateralize fully'' a repurchase agreement eligible for ''look-through'' treatment under the rule. We have expanded acceptable collateral to include unrated securities that are of comparable quality to securities that are rated in the highest rating category by the Requisite NRSROs, as determined by the investment company's board of directors or its delegate.[16] We are not, however, adopting a recommendation by two commenters that we altogether eliminate the rule's requirements regarding the credit quality of the collateral. A requirement that the underlying collateral be of highest quality limits a fund's exposure to the ability of the counterparty to maintain sufficient collateral. As we noted in the Proposing Release, securities of lower quality may be subject to greater price fluctuation. In the event of a steep drop in the market value of the collateral, the counterparty would have to deliver additional securities sufficient to ensure that the repurchase agreement remains fully collateralized. If the counterparty does not deliver sufficient additional securities and thus defaults, the fund may be unable to realize the full value of the repurchase agreement upon liquidation of the collateral. In addition, high quality securities are more readily liquidated than lower quality securities, in the event of a counterparty default.

2. Bankruptcy Treatment

Rule 5b–3 extends ''look-through'' treatment only to repurchase agreements that qualify for an exclusion from any automatic stay of creditors' rights under applicable bankruptcy laws.[17] Most comments supported this provision, which we are adopting as proposed. Failure of a repurchase agreement to qualify for an exclusion from an automatic stay would make ''look-through'' treatment inappropriate because the credit and liquidity risks assumed by the fund would be tied directly to the counterparty rather than the issuer of the underlying collateral.

3. Evaluating the Creditworthiness of Counterparties

We are eliminating the requirement, included in the staff no-action positions, and our proposal, that the fund's board of directors or its delegate evaluate the creditworthiness of the counterparty to a repurchase agreement. As one commenter observed, the creditworthiness assessment was required under the staff no-action letters because, at the time the letters were written, it was not clear whether a repurchase agreement would be subject to the automatic stay provision in the Bankruptcy Code, in the event that the counterparty became insolvent.[18] In light of subsequent amendments to the Code protecting the parties to repurchase agreements and our requirement that funds relying on the rule qualify for Bankruptcy Code protection,[19] we conclude that it is not necessary for the rule to contain a specific requirement that the fund's directors or their delegate assess the creditworthiness of the counterparty.[20]

B. Treatment of Pre-Refunded Bonds

We are adopting, as proposed, new rule 5b–3(b) which codifies, for purposes of section 5(b)(1), the conditions specified in the staff's no-action position permitting a fund to treat an investment in a ''refunded security'' as an investment in the escrowed U.S. government securities.[21] Under the rule, a ''refunded security'' is defined as a debt security the principal and interest payments of which are to be paid by U.S. government securities that have been irrevocably placed in an escrow account and are pledged only to the payment of the debt security.[22] The escrowed securities must not be redeemable prior to their final maturity, and the escrow agreement must prohibit the substitution of the escrowed securities unless the substituted securities are also U.S. government securities.[23] Finally, an independent certified public accountant must have certified to the escrow agent that the escrowed securities will satisfy all scheduled payments of principal, interest and applicable premiums on the refunded securities.[24] This treatment corresponds to the treatment that has been given to pre-refunded bonds in rule 2a–7.[25]

Commenters expressed support for the changes made by rule 5b–3(b), and we are adopting this provision as proposed.

C. Availability of Rule 12d3–1 for Repurchase Agreements

We are adopting, as proposed, an amendment to rule 12d3–1 that eliminates a note appended to the rule. Rule 12d3–1 provides limited exemptive relief from the prohibition in section 12(d)(3) of the Act against a fund acquiring an interest in a broker-dealer or a bank engaged in a securities-related business.[26] As discussed above, a fund

[15] The term ''Requisite NRSROs'' is defined in rule 5b–3(c)(6) as any two NRSROs, or, if only one NRSRO has issued a rating at the time the fund acquires the security, that NRSRO. ''NRSRO'' is defined in rule 5b–3(c)(5) as any nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of rule 15c3–1 [17 CFR 240.15c3–1] under the Securities Exchange Act of 1934 [15 U.S.C. 78a–mm], that is not an ''affiliated person,'' as defined in section 2(a)(3)(C) of the Act [15 U.S.C. 80a–2(a)(3)(C)], of the issuer of, or any insurer or provider of credit support for, the security.

[16] Rule 5b–3(c)(1)(iv)(D).

[17] Rule 5b–3(c)(1)(v). *See* sections 101(47) of the Federal Bankruptcy Code (''Bankruptcy Code'') (defining ''repurchase agreement'') and 559 (protecting repurchase agreement participants from the Bankruptcy Code's automatic stay provisions). The Bankruptcy Code currently defines a repurchase agreement as:

An agreement, including related terms, which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain no later than one year after such transfer or on demand, against the transfer of funds.

As a result, funds are limited in the collateral they can accept by both paragraph (c)(1)(iv)(D) of the rule and the provisions of the Bankruptcy Code (and other applicable insolvency laws) providing preferred treatment to qualifying repurchase agreements.

[18] *See* Proposing Release *supra* note 4 at nn.12–16 and accompanying text.

[19] Rule 5b–3(c)(1)(v).

[20] By omitting this requirement, we are not suggesting that it might not be prudent for an adviser to a fund to take precautions, including evaluating the creditworthiness of the counterparty, when entering into repurchase agreements on behalf of the fund.

[21] Rule 5b–3(b). Unlike the no-action position, the rule does not limit the amount of pre-refunded bonds of any one issuer that a fund can acquire. *See* T. Rowe Price Tax-Free Funds, *supra* note 10.

[22] Rule 5b–3(c)(4).

[23] Rule 5b–3(c)(4)(i), (ii).

[24] Rule 5b–3(c)(4)(iii). The rule makes an exception to the certification requirement if the refunded security has received the highest rating from an NRSRO. *Id.*

[25] *See* rule 2a–7(c)(4)(ii)(B). Technical amendments that we are adopting today will replace the definition of ''refunded security'' in rule 2a–7(a)(20) with a reference incorporating the definition that we are adopting in rule 5b–3(c)(4).

[26] Rule 12d3–1 provides an exemption for purchases of securities of any entity that derived fifteen percent or less of its gross revenues from securities related activities in its most recent fiscal year, unless the acquiring company would control the entity after the purchase. If the entity derived more than fifteen percent of its gross revenues from securities related activities, the rule provides a

that enters into a repurchase agreement with a broker-dealer or other counterparty that is engaged in securities related activities may be in violation of section 12(d)(3) of the Act, unless it is permitted to look through the agreement to the underlying collateral. The note appended to rule 12d3–1 has made the rule unavailable for repurchase agreements. With the elimination of this note, funds may rely on rule 12d3–1 even if the repurchase agreement does not meet the requirements for ''look-through'' treatment in rule 5b–3.[27]

D. Conforming Amendments to Rule 2a–7

We are also adopting conforming amendments to rule 2a–7. These amendments replace the definitions of ''collateralized fully,'' ''event of insolvency,'' and ''refunded security,'' currently set forth in rule 2a–7, with cross-references to the corresponding definitions in rule 5b–3.[28]

III. Effective Date

The new rule and rule amendments will be effective August 15, 2001.[29]

IV. Cost-Benefit Analysis

The Commission is sensitive to the costs and benefits imposed by its rules. For the most part, rule 5b–3 codifies current staff positions, and therefore will result in few marginal costs or benefits.[30] By codifying a number of staff no-action positions issued over a nearly twenty year period, the rule will give greater transparency to the Commission's rules in this area. In addition, the rule uses standards that are similar to those currently specified in rule 2a–7 for the treatment of repurchase agreements and pre-refunded bonds by money market funds. With this similar treatment, fund complexes that include money market funds may be more efficient in monitoring compliance with the requirements of the rules for all types of funds.

The rule is more restrictive than current requirements in two respects. First, as discussed above, rule 5b–3 is limited to repurchase agreements in which the underlying collateral consists of cash items, U.S. government securities, securities that are rated in the highest rating category by the Requisite NRSROs and unrated securities that are of comparable quality to securities that are rated in the highest rating category by the Requisite NRSROs, as determined by an investment company's board of directors or its delegate. This requirement is intended to ensure that the market value of the collateral will remain fairly stable and that the fund will be able to liquidate the collateral quickly in the event of a default. This limitation on collateral is more restrictive than the staff's position with respect to the treatment of repurchase agreements for purposes of section 12(d)(3),[31] but less restrictive than the staff's position with respect to section 5(b)(1).[32] Since most repurchase agreements are collateralized by U.S. government securities, which clearly fall within the rule's limitations, it appears that the limitation will not have any significant impact on funds.

Second, the rule is limited to repurchase agreements that qualify for an exclusion from any automatic stay under applicable insolvency law. Although this requirement is included in rule 2a–7, it was not a feature of the staff positions, which generally pre-dated the relevant changes in the Bankruptcy Code. Again, because most repurchase agreements qualify for an exclusion, this limitation should not have any significant impact on funds. The limitation will, however, provide important protections for investors by ensuring that a fund can liquidate the collateral quickly in the event of the counterparty's bankruptcy.

The use of rule 5b–3 is optional: even if a fund can look through a repurchase agreement, it may choose to look to the counterparty rather than the underlying securities in meeting the diversification requirements in section 5(b)(1). Thus, a fund may choose not to use rule 5b–3 if it determines that the costs of complying with the rule's requirements outweigh the benefits of being able to look through the repurchase agreement to the underlying securities.

The amendment to rule 12d3–1 eliminates the ''Note'' to the rule that renders the rule unavailable for repurchase agreements. This amendment will provide additional flexibility for funds without impairing investor protection.

V. Effects on Efficiency, Competition, and Capital Formation

Section 2(c) of the Investment Company Act requires the Commission, when engaging in rulemaking that requires it to consider or determine whether an action is consistent with the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.[33] Rule 5b–3 and the amendments to rules 2a–7 and 12d–3 are being adopted pursuant to the authority in section 6(c) and 38(a) of the Act.[34] Section 6(c) conditions rulemaking authority on the requirement that the rule be ''necessary or appropriate in the public interest''; therefore, the requirements of section 2(c) apply to rule 5b–3 and the rule amendments.

The Commission has considered whether this rulemaking will promote efficiency, competition, and capital formation. The rule and rule amendments generally codify the requirements for looking through repurchase agreements and pre-refunded bonds to the underlying securities for purposes of complying with sections 5(b)(1) and 12(d)(3) of the Act. Consistent with staff no-action positions, funds have been looking through repurchase agreements and pre-refunded bonds for a number of years. The few changes made by the rule and rule amendments generally are intended to reflect recent developments in bankruptcy law protecting parties to repurchase agreements and to adapt the Act to economic realities of repurchase agreements and pre-refunded bonds. These changes should not have a significant impact on funds. In addition,

limited exemption based on the amount and value of the securities purchased. The note to the rule stated: ''NOTE: It is not intended that this rule should supersede the requirements prescribed in Investment Company Act Release No. 13005 (Feb. 2, 1983) with respect to repurchase agreements with brokers or dealers.''

[27] By eliminating this note, we do not intend in any way to alter an adviser's duty of care with respect to the advice it provides a mutual fund, including the advice to enter into a repurchase agreement.

[28] Rule 2a–7(a)(5), (11), and (20) (cross-referencing rule 5b–3(c)(1), (2), and (4)). Rule 5b–3(c)(1) expands the types of collateral that may be used to collateralize fully a repurchase agreement to include certain high-quality, unrated securities. *See supra* note 16 and accompanying text. This expansion of acceptable collateral also applies to rule 2a–7.

[29] As we indicated in the Proposing Release, we are withdrawing all prior Commission and staff no-action and interpretive positions that are inconsistent with rule 5b–3. This withdrawal is effective [60 days after publication of the release in the **Federal Register**]. After this date, funds may ''look through'' repurchase agreements and pre-refunded bonds to the underlying collateral, for purposes of the Act, only if all of the requirements of rule 5b–3 are met.

[30] We received no response to the request for comment on the preliminary cost-benefit analysis that was included in the Proposing Release.

[31] Investment Company Act Release No. 13005 (Feb. 2, 1983) [48 FR 5894 (Feb. 9, 1983)] did not specify the type of collateral, merely noting that the ''securities most frequently used in connection with repurchase agreements are Treasury bills and other United States Government securities.''

[32] The staff's no-action position in MoneyMart Assets, *supra* note 6, was conditioned on the collateral consisting entirely of U.S. government securities.

[33] 15 U.S.C. 80a–2(c).

[34] 15 U.S.C. 80a–6(c) and 80a–38(a).

since the use of rule 5b–3 is optional, funds may choose to look to the repurchase agreement counterparty rather than the underlying securities in meeting the diversification requirements in section 5(b)(1). Given these factors, we believe that the rule and rule amendments will have no significant impact on efficiency, competition, and capital formation.

VI. Summary of Final Regulatory Flexibility Analysis

The Commission has prepared a Final Regulatory Flexibility Analysis (''FRFA'') in accordance with 5 U.S.C. 604 regarding rule 5b–3, and the amendments to rules 2a–7 and 12d3–1. A summary of the Initial Regulatory Flexibility Analysis (''IRFA''), which was prepared in accordance with 5 U.S.C. 603, was published in the Proposing Release. The following is a summary of the FRFA.

A. Need for and Objectives of the Rule Amendments

Rule 5b–3 generally codifies the staff's position that a fund may look through a fully collateralized repurchase agreement to the underlying securities for purposes of sections 5(b)(1) and 12(d)(3) of the Act. The rule also permits a fund to treat the acquisition of certain pre-refunded bonds as an acquisition of the escrowed securities for purposes of section 5(b)(1) of the Act. In addition, the amendment to rule 12d3–1 eliminates the ''Note'' appended to the rule in order to allow funds to rely on rule 12d3–1 even if the repurchase agreement is not collateralized fully. Finally, the amendments to rule 2a–7 are intended to simplify and update the provisions of that rule that address repurchase agreements and refunded securities.

B. Significant Issues Raised by Public Comments

The Commission received no comments on the IRFA.

C. Small Entities Subject to the Rules

For purposes of the Investment Company Act and the Regulatory Flexibility Act, a fund is a small entity if the fund, together with other funds in the same group of related funds, has net assets of $50 million or less as of the end of its most recent fiscal year.[35]

Rule 5b–3 and the amendment to rule 12d3–1 will affect any fund that invests in a repurchase agreement with a broker, dealer, underwriter, or bank that is engaged in a securities-related business, when the investment may otherwise be prohibited by section 12(d)(3) of the Act. In addition, rule 5b–3 will affect any fund that holds itself out as a diversified investment company under section 5(b)(1) of the Act and that invests in repurchase agreements or pre-refunded bonds.

As of December 31, 2000, there were approximately 4,145 registered funds that were not money market funds. The Commission staff estimates that 196 of these funds are small entities. We assume that all funds enter into repurchase agreements, and that many of these agreements are with broker-dealers or other counterparties that are engaged in a securities-related business. Therefore, we anticipate that all of the estimated 196 small entities will be affected by the rule's treatment of investments in repurchase agreements for purposes of section 5(b)(1) and 12(d)(3) of the Act, and the amendment to rule 12d3–1.

The FRFA explains that rule 5b–3 should not have a significant economic impact on these funds. The rule would not effect significant changes to the current treatment of repurchase agreements and pre-refunded bonds, but instead would generally codify and update a number of no-action positions that have been taken by the Commission staff. In addition, the amendment to rule 12d3–1 would benefit these funds by allowing them to rely on the rule even if the repurchase agreement does not meet the requirements for ''look-through'' treatment.

The amendments to rule 2a–7 affect money market funds. As of December 31, 2000, there were approximately 300 registered funds with one or more portfolios that are money market funds. The Commission staff estimates that approximately six of these funds are small entities. The amendments replace the definitions of ''collateralized fully,'' ''event of insolvency,'' and ''refunded security'' in rule 2a–7 with cross-references to the corresponding definitions in rule 5b–3. The cross-reference to the definition of ''collateralized fully'' in rule 5b–3 will allow money market funds to use unrated securities that are of comparable quality to securities that are rated in the highest rating category by the Requisite NRSROs to collateralize fully their repurchase agreements. This change will not have a significant impact on small entities because most repurchase agreements are collateralized fully by U.S. government securities. In addition, the cross-references to the definitions of ''event of insolvency'' and ''refunded security'' in rule 5b–3 will not have a significant impact on small entities because the cross-references do not involve any change in substantive requirements.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

Rule 5b–3 and the amendments to rule 2a–7 and 12d–3 will not impose any new reporting or recordkeeping requirements. These provisions do not involve major changes in compliance requirements because they mainly codify existing Commission staff positions. There are no rules that duplicate, overlap or conflict with the rule and rule amendments.

E. Agency Action to Minimize Effects on Small Entities

The Regulatory Flexibility Act directs the Commission to consider significant alternatives that would accomplish the stated objective, while minimizing any significant economic impact on small entities. In connection with rule 5b–3 and the rule amendments, the Commission considered the following alternatives: (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (iii) the use of performance rather than design standards; and (iv) an exemption from coverage of the rule, or any part thereof, for small entities. The FRFA notes that rule 5b–3 and the rule amendments are not intended to effect major substantive changes to the current treatment of repurchase agreements and pre-refunded bonds, but would essentially codify a number of no-action positions taken by the Commission staff. Because rule 5b–3 and the rule amendments are designed to clarify the appropriate treatment of investments by funds in repurchase agreements and pre-refunded bonds for various purposes of the Act, and to provide investment flexibility for funds of all sizes, it would be inconsistent with the purposes of the Regulatory Flexibility Act to propose to exempt small entities from their coverage. Further clarification, consolidation, or simplification of the rules, or specification of different compliance standards for small entities, would not be appropriate, because the rules set forth the minimum standards consistent with investor protection. For the same reasons, the use of performance standards would be inappropriate. Overall, rule 5b–3 and the rule amendments will not have an adverse effect on small entities.

The FRFA is available for public inspection in File No. S7–21–99, and a

[35] 17 CFR 270.0–10.

copy may be obtained by contacting Hugh Lutz, Attorney, at (202–942–0690), Office of Regulatory Policy, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549–0506.

VII. Statutory Authority

The Commission is adopting new rule 5b–3, and amending rule 2a–7 and rule 12d3–1, pursuant to the authority set forth in sections 6(c) and 38(a) of the Act [15 U.S.C. 80a–6(c) and 80a–37(a)]. The Commission is amending Form N–SAR pursuant to authority set forth in sections 13, 15(d) and 23(a) of the Securities Exchange Act of 1934 [15 U.S.C. 78m, 78o(d), and 78w(a)] and sections 8, 30 and 38 of the Investment Company Act of 1940 [15 U.S.C. 80a–8, 80a–29 and 80a–37].

List of Subjects in 17 CFR Parts 270 and Part 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rule and Form Amendments

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. The authority citation for Part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–34(d), 80a–37, 80a–39, unless otherwise noted;

* * * * *

2. Section 270.2a–7 is amended by revising paragraphs (a)(5), (a)(11), and (a)(20) to read as follows:

§ 270.2a–7 Money market funds.

(a) Definitions.

* * * * *

(5) *Collateralized Fully* means ''Collateralized Fully'' as defined in § 270.5b–3(c)(1).

* * * * *

(11) *Event of Insolvency* means ''Event of Insolvency'' as defined in § 270.5b–3(c)(2).

* * * * *

(20) *Refunded Security* means ''Refunded Security'' as defined in § 270.5b–3(c)(4).

* * * * *

3. Section 270.5b–3 is added to read as follows:

§ 270.5b–3 Acquisition of repurchase agreement or refunded security treated as acquisition of underlying securities.

(a) *Repurchase Agreements.* For purposes of sections 5 and 12(d)(3) of the Act (15 U.S.C. 80a–5 and 80a–12(d)(3)), the acquisition of a repurchase agreement may be deemed to be an acquisition of the underlying securities, provided the obligation of the seller to repurchase the securities from the investment company is Collateralized Fully.

(b) *Refunded Securities.* For purposes of section 5 of the Act (15 U.S.C. 80a–5), the acquisition of a Refunded Security is deemed to be an acquisition of the escrowed Government Securities.

(c) *Definitions.* As used in this section:

(1) *Collateralized Fully* in the case of a repurchase agreement means that:

(i) The value of the securities collateralizing the repurchase agreement (reduced by the transaction costs (including loss of interest) that the investment company reasonably could expect to incur if the seller defaults) is, and during the entire term of the repurchase agreement remains, at least equal to the Resale Price provided in the agreement;

(ii) The investment company has perfected its security interest in the collateral;

(iii) The collateral is maintained in an account of the investment company with its custodian or a third party that qualifies as a custodian under the Act;

(iv) The collateral consists entirely of:

(A) Cash items;

(B) Government Securities;

(C) Securities that at the time the repurchase agreement is entered into are rated in the highest rating category by the Requisite NRSROs; or

(D) Unrated Securities that are of comparable quality to securities that are rated in the highest rating category by the Requisite NRSROs, as determined by the investment company's board of directors or its delegate; and

(v) Upon an Event of Insolvency with respect to the seller, the repurchase agreement would qualify under a provision of applicable insolvency law providing an exclusion from any automatic stay of creditors' rights against the seller.

(2) *Event of Insolvency* means, with respect to a person:

(i) An admission of insolvency, the application by the person for the appointment of a trustee, receiver, rehabilitator, or similar officer for all or substantially all of its assets, a general assignment for the benefit of creditors, the filing by the person of a voluntary petition in bankruptcy or application for reorganization or an arrangement with creditors; or

(ii) The institution of similar proceedings by another person which proceedings are not contested by the person; or

(iii) The institution of similar proceedings by a government agency responsible for regulating the activities of the person, whether or not contested by the person.

(3) *Government Security* means any ''Government Security'' as defined in section 2(a)(16) of the Act (15 U.S.C. 80a–2(a)(16)).

(4) *Refunded Security* means a debt security the principal and interest payments of which are to be paid by Government Securities (''deposited securities'') that have been irrevocably placed in an escrow account pursuant to an agreement between the issuer of the debt security and an escrow agent that is not an ''affiliated person,'' as defined in section 2(a)(3)(C) of the Act (15 U.S.C. 80a–2(a)(3)(C)), of the issuer of the debt security, and, in accordance with such escrow agreement, are pledged only to the payment of the debt security and, to the extent that excess proceeds are available after all payments of principal, interest, and applicable premiums on the Refunded Securities, the expenses of the escrow agent and, thereafter, to the issuer or another party; *provided* that:

(i) The deposited securities are not redeemable prior to their final maturity;

(ii) The escrow agreement prohibits the substitution of the deposited securities unless the substituted securities are Government Securities; and

(iii) At the time the deposited securities are placed in the escrow account, or at the time a substitution of the deposited securities is made, an independent certified public accountant has certified to the escrow agent that the deposited securities will satisfy all scheduled payments of principal, interest and applicable premiums on the Refunded Securities; *provided, however,* an independent public accountant need not have provided the certification described in this paragraph (c)(4)(iii) if the security, as a Refunded Security, has received a rating from an NRSRO in the highest category for debt obligations (within which there may be sub-categories or gradations indicating relative standing).

(5) *NRSRO* means any nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of § 240.15c3–1 of this chapter, that is not an ''affiliated person,'' as defined in section 2(a)(3)(C) of the Act (15 U.S.C.

80a–2(a)(3)(C)), of the issuer of, or any insurer or provider of credit support for, the security.

(6) *Requisite NRSROs* means:

(i) Any two NRSROs that have issued a rating with respect to a security or class of debt obligations of an issuer; or

(ii) If only one NRSRO has issued a rating with respect to such security or class of debt obligations of an issuer at the time the investment company acquires the security, that NRSRO.

(7) *Resale Price* means the acquisition price paid to the seller of the securities plus the accrued resale premium on such acquisition price. The accrued resale premium is the amount specified in the repurchase agreement or the daily amortization of the difference between the acquisition price and the resale price specified in the repurchase agreement.

(8) *Unrated Securities* means securities that have not received a rating from the Requisite NRSROs.

4. Section 270.12d3–1 is amended by removing the note following paragraph (d)(8).

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

5. The authority citation for Part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 781, 78m, 78n, 78o(d), 80a–8, 80a–24, and 80a–29, unless otherwise noted.

Note: The text of Form N–SAR does not, and this amendment will not, appear in the *Code of Federal Regulations*.

6. Form N–SAR (referenced in 17 CFR 274.101) is amended by revising the second sentence in the first paragraph of the Instructions to Specific Items 24 and 25 to read as follows:

FORM N–SAR

* * * * *

Instructions to Specific Items

* * * * *

ITEMS 24 and 25: Acquisition of securities of registrant's regular brokers or dealers

* * * *See* Rule 12d3–1, Investment Company Act Release No. 14036, dated July 13, 1984, adopting Rule 12d3–1, and Investment Company Act Release No. 25058, dated July 5, 2001, amending Rule 12d3–1. * * *

* * * * *

Dated: July 5, 2001.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–17302 Filed 7–10–01; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Tylosin; Withdrawal of Approval of NADAs

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions that reflect approval of two new animal drug applications (NADAs) listed below. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of the NADAs.

DATES: This rule is effective July 23, 2001.

FOR FURTHER INFORMATION CONTACT: Pamela K. Esposito, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5593.

SUPPLEMENTARY INFORMATION: Heinold Feeds, Inc., P.O. Box 377, Kouts, IN 46347, has requested that FDA withdraw approval of NADA 95–628 for Tylosin® Antibiotic Premix and NADA 127–506 for Tylan® Sulfa-G Premixes because the products are no longer manufactured or marketed.

Following the withdrawal of approval of these NADAs, Heinold Feeds, Inc., is no longer the sponsor of any approved applications. Therefore, 21 CFR 510.600(c) is amended to remove entries for this sponsor.

As provided below, the animal drug regulations are amended to reflect the withdrawal of approvals.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for ''Heinold Feeds, Inc.,'' and in the table in paragraph (c)(2) by removing the entry for ''043727''.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.625 [Amended]

4. Section 558.625 *Tylosin* is amended by removing and reserving paragraph (b)(9).

§ 558.630 [Amended]

5. Section 558.630 *Tylosin and sulfamethazine* is amended in paragraph (b)(10) by removing ''043727,''; and by removing ''and 051359, 053389'' and by adding in its place ''051359, and 053389''.

Dated: July 2, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–17407 Filed 7–10–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–014]

Drawbridge Operating Regulation; Green River, Spottsville, Kentucky

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from drawbridge regulations.

SUMMARY: The Commander, Eighth Coast Guard District has authorized a temporary deviation from the regulation governing the Louisville & Nashville Railroad Drawbridge, Mile 8.3, Green River at Spottsville, Kentucky. This deviation allows the drawbridge to remain closed to navigation for 12 days from 7 a.m., August 13, 2001, until 5 p.m., August 24, 2001. This action is required to allow the bridge owner time for repair work that is essential to the continued safe operation of the drawbridge.

DATES: This temporary deviation is effective from 7 a.m., August 13, 2001, until 5 p.m., August 24, 2001.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, Commander (obr), Eighth Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103–2832, (314) 539–3900, extension 378.

SUPPLEMENTARY INFORMATION: The Louisville & Nashville Drawbridge provides a vertical clearance of 46.4 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreation watercraft. During normal river stages most vessels are able to pass beneath the closed span. In order to repair the bent shaft and install new lift rails the bridge must be kept inoperative and in the closed-to-navigation position. This deviation has been coordinated with waterway users who do not object.

This deviation allows the bridge to remain closed to navigation from 7 a.m., August 13, 2001, to 5 p.m., August 24, 2001. The drawbridge normally opens on signal.

Dated: June 28, 2001.

Roy J. Casto,

RADM, USCG, Commander, 8th CG District.

[FR Doc. 01–17378 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 08–01–016]

Drawbridge Operating Regulation; Mississippi River, Iowa and Illinois

AGENCY: Coast Guard, DOT.

ACTION: Temporary deviation.

SUMMARY: The Commander, Eighth Coast Guard District, has authorized a temporary deviation from the regulation governing the Rock Island Railroad & Highway Drawbridge, across the Upper Mississippi River at Mile 482.9, at Rock Island, Illinois. This deviation allows for the drawbridge to remain closed-to-navigation for 8 hours from 6 a.m. to 2 p.m. on August 4, 2001. This action is required to allow the bridge owner time to perform structural repairs for concrete placement of the swing span.

DATES: This temporary deviation is effective from 6 a.m. to 2 p.m., August 4, 2001.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, Commander (obr), Eighth Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103–2832, (314) 539–3900, extension 378.

SUPPLEMENTARY INFORMATION: The Rock Island Railroad & Highway Drawbridge provides a vertical clearance of 23.8 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This deviation has been coordinated with waterway users who do not object.

This deviation allows the bridge to remain closed-to-navigation from 6 a.m. to 2 p.m., August 4, 2001. The drawbridge normally opens on signal.

Dated: June 28, 2001.

Roy J. Casto, RADM, USCG,

Commander, 8th CG District.

[FR Doc. 01–17379 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 08–01–015]

Drawbridge Operating Regulation; Mississippi River, Iowa and Illinois

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from drawbridge regulations.

SUMMARY: The Commander, Eighth Coast Guard District has authorized a temporary deviation from the regulation governing the Rock Island Railroad & Highway Drawbridge, across the Upper Mississippi River at Mile 482.9, at Rock Island, Illinois. This deviation allows for the drawbridge to remain closed-to-navigation for 12 hours from 6 a.m. to 6 p.m. on July 17, 2001. This action is required to allow the bridge owner time for dark removal and perform structural repairs.

DATES: This temporary deviation is effective from 6 a.m. to 6 p.m., July 17, 2001.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, Commander (obr), Eighth Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103–2832, (314) 539–3900, extension 378.

SUPPLEMENTARY INFORMATION: The Rock Island Railroad & Highway Drawbridge provides a vertical clearance of 23.8 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This deviation has been coordinated with waterway users who do not object.

This deviation allows the bridge to remain closed-to-navigation from 6 a.m. to 6 p.m., July 17, 2001. The drawbridge normally opens on signal and will open on signal at all other times.

Dated: June 21, 2001.

Roy J. Casto,

RADM, USCG Commander, 8th CG District.

[FR Doc. 01–17380 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–01–052]

Drawbridge Operation Regulations; Florida East Coast Railroad Bridge, St. Johns River, Jacksonville, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Florida East Coast Railroad Bridge across the St. Johns River, mile 24.9, Jacksonville, Florida. This test deviation removes the automated tender and requires the bridge owner or operator to post a live bridge-tender (Control Operator) to control the bridge openings. This test period will begin at 8 a.m., on August 2, 2001 and terminate at 4 p.m., August 31, 2001. The test data will be compiled utilizing bridge logs.

DATES: This deviation is effective from 8 a.m., August 2, 2001 to 4 p.m., August 31, 2001. Comments must be received by September 30, 2001.

ADDRESSES: You may mail comments and related material to Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Miami, FL 33131. Comments and material received from the public, as well as documents

indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Miami, FL 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Section at (305) 415–6743.

SUPPLEMENTARY INFORMATION: The Federal East Coast Railroad Bridge across the St. Johns River at Jacksonville, is a single leaf bridge with a vertical clearance of 9 feet above mean high water (MHW) measured at the fenders in the closed position with a horizontal clearance of 195 feet. The current operating regulation in 33 CFR 117.325(c) allows the draw to operate as an automated railroad bridge.

On May 1, 2001, the drawbridge owner requested a deviation from the current operating regulations to allow the owner to conduct a study to determine if the removal of the automation of this bridge will improve navigational safety for vessels, and increase efficiency of rail traffic.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.325(c) for the purpose of conducting this study. Under this deviation, the Florida East Coast Railroad Bridge shall open on signal and a radiotelephone shall be maintained at the bridge for safety of navigation. The draw will close when a train approaches and remain closed for the passage of the train for a period of not more than sixteen minutes. The draw may be allowed to remain in the last used position until the next passage of a vessel or train. The deviation is effective from 8 a.m., August 2, 2001, to 4 p.m., August 31, 2001.

Request for Comments

We encourage you to participate in this rulemaking of the test schedule by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this deviation [CGD07–01–052], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. The comment period will end on September 30, 2001.

Dated: July 2, 2001.

Greg E. Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 01–17386 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–01–059]

Drawbridge Operation Regulations: State Road A1A (North Bridge) Drawbridge, Atlantic Intracoastal Waterway, Fort Pierce, Florida

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the State Road A1A (North Bridge) Drawbridge across the Atlantic Intracoastal Waterway, mile 964.8, Fort Pierce, Florida. This deviation allows the bridge owner to provide single leaf openings from 8:30 a.m. until 4:30 p.m., on July 23, 2001 through July 25, 2001. Double leaf openings shall be provided with a two-hour advance notice. This temporary deviation is required to allow the bridge owner to safely complete emergency repairs to the bridge decking.

DATES: This deviation is effective from 8:30 a.m., July 23, 2001, through 4:30 p.m., July 25, 2001.

ADDRESSES: Material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Miami, FL 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Section at (305) 415–6743.

SUPPLEMENTARY INFORMATION: The State Road A1A (North Bridge) Drawbridge across the Atlantic Intracoastal Waterway at Fort Pierce, Florida, is a double leaf bridge with a vertical clearance of 26 feet above mean high water (MHW) measured at the fenders in the closed position with a horizontal clearance of 90 feet. The current operating regulation in 33 CFR 117.5 requires the draw to open on signal.

On June 27, 2001, the drawbridge owner requested a deviation from the current operating regulations to allow the owner to complete emergency repairs to the corroded decking.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.5 for the purpose of completing these repairs. Under this deviation, the State Road A1A (North Bridge) shall operate on single leaf from 8:30 a.m. to 4:30 p.m. from July 23, 2001 through July 25, 2001. Double leaf openings shall be provided with two hours advance notice.

Dated: June 28, 2001.

Greg E. Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 01–17388 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–096]

Drawbridge Operation Regulations: Newark Bay, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge regulations which govern the operation of the Lehigh Valley (Upper Bay) railroad bridge, at mile 4.3, across Newark Bay in New Jersey. This deviation from the regulations allows the bridge owner to keep the bridge in the closed position from 6 a.m., on July 23, 2001 through 6 p.m., on July 27, 2001. This action is necessary to facilitate maintenance at the bridge. Vessels that can pass under the bridge without an opening may do so at all times.

DATES: This deviation is effective from July 23, 2001 through July 27, 2001.

FOR FURTHER INFORMATION CONTACT: Judy Yee, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The Lehigh Valley (Upper Bay) railroad bridge, at mile 4.3, across Newark Bay has a vertical clearance of 35 feet at

mean high water, and 39 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR 117.735.

The bridge owner, Conrail, requested a temporary deviation from the operating regulations to facilitate replacement of the main counterweight sheave assembly at the bridge.

This deviation to the operating regulations will allow the owner of the bridge to keep the bridge in the closed position from 6 a.m., on July 23, 2001 through 6 p.m., on July 27, 2001. Vessels that can pass under the bridge without an opening may do so at all times.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 28, 2001.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 01–17389 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–017]

Drawbridge Operating Regulation; Lower Grand River, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the LA 77 bridge across the Lower Grand River, mile 47.0 (Alternate Route) at Grosse Tete, Iberville Parish, Louisiana. This deviation allows the Louisiana Department of Transportation and Development to maintain the bridge in the closed-to-navigation position from 7 a.m. until 5 p.m. on Tuesday, July 24, 2001. At all others times, the bridge will operate normally for the passage of vessels. This temporary deviation was issued to allow for the replacement of a hydraulic valve which controls the cylinders that open and close the bridge.

DATES: This deviation is effective from 7 a.m. until 5 p.m. on Monday, July 24, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130–3396, telephone number 504–589–2965.

SUPPLEMENTARY INFORMATION: The LA 77 bridge across the Lower Grand River, mile 47.0 (Alternate Route) at Grosse Tete, Iberville Parish, Louisiana, has a vertical clearance of 2 feet above high water in the closed-to-navigation position and unlimited clearance in the open-to-navigation position. Navigation on the waterway consists mainly of tows with barges and some recreational craft. The Louisiana Department of Transportation and Development requested a temporary deviation from the normal operation of the bridge in order to replace a defective part that controls the opening and closing of the bridge.

This deviation allows the draw of the LA 77 swing drawbridge across the Lower Grand River, mile 47.0 (Alternate Route), at Grosse Tete, Iberville Parish, Louisiana, (33 CFR 117.478(b)), to remain in the closed-to-navigation position from 7 a.m. until 5 p.m. on Tuesday July 24, 2001. Presently, the draw of the LA 77 bridge, mile 47.0 (Alternate Route) at Grosse Tete, shall open on signal; except that, from about August 15 to about June 5 (the school year), the draw need not be opened from 6 a.m. to 8 a.m. and from 2:30 p.m. to 4:30 p.m., Monday through Friday except Federal holidays. The draw shall open on signal at any time for an emergency aboard a vessel.

Dated: June 28, 2001.

Roy J. Casto,

RADM, USCG, Commander, 8th CG District.

[FR Doc. 01–17391 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–047]

RIN 2115–AA97

Safety Zone; Lake Michigan, Chicago, IL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Venetian Night Fireworks in Chicago, Illinois. This safety zone is necessary to protect vessels and spectators from potential airborne hazards during a planned fireworks display over Lake Michigan. The safety zone is intended to restrict vessels from a portion of Lake Michigan off Chicago, Illinois.

DATES: This rule is effective from 9 p.m. (local) until 10 p.m. (local), July 28, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–047] and are available for inspection or copying at Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois 60521, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST2 Mike Hogan, U.S. Coast Guard Marine Safety Office, 215 W. 83rd Street, Suite D, Burr Ridge, IL 60521. The telephone number is (630) 986–2175.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the necessary effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments with regard to this event.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Chicago has determined firework launches in close proximity to watercraft pose significant

risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platforms will help ensure the safety of persons and property at these events and help minimize the associated risks.

Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Chicago or his designated on-scene representative. The designated on-scene representative may be contacted on VHF/FM Marine Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities: the owners or operators of vessels intending to transit or anchor in a portion of Lake Michigan from 9 p.m. to 10 p.m., July 28, 2001. This regulation would not have a significant economic impact for the following reasons. The regulation is only in effect for only 1 hour on one day. The designated area is being established to allow for maximum use of the waterway for commercial vessels to enjoy the fireworks display in a safe manner. In addition, commercial vessels transiting the area can transit around the area. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new temporary section 165.T09–919 is added to read as follows:

§ 165.T09–919 Safety Zone: Lake Michigan, Chicago, IL.

(a) *Location.* The following area is a safety zone: The waters of Lake Michigan within the arc of a circle with a 700-foot radius from the fireworks launch site at Monroe Harbor with its center in the approximate position 41°52′41″ N/087°36′37″ W. (NAD 1983).

(b) *Effective time and date.* This regulation is effective from 9 p.m. (local) until 10 p.m. (local), on July 28, 2001.

(c) *Regulations.* This safety zone is being established to protect the boating public during a planned fireworks display. In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Chicago, or the designated Patrol Commander.

Dated: June 21, 2001.

R.E. Seebald,

Captain, U.S. Coast Guard, Captain of the Port Chicago.

[FR Doc. 01–17383 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–107]

RIN 2115–AA97

Safety Zone; McArdle Bridge Dredge Operations—Boston, Massachusetts

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone closing all waters of Boston Inner Harbor one hundred (100) yards upstream and downstream from the McArdle Bridge for Bridge Dredge Operations. The safety zone prohibits entry into or movement within this portion of Boston Inner Harbor during the closure periods without Captain of the Port authorization and is needed to allow the Great Lakes Dredge Company to conduct dredging in the vicinity of the McArdle Bridge.

DATES: This rule is effective from June 27 through July 13, 2001.

ADDRESSES: Documents as indicated in this preamble are part of docket CGD01–01–107 and are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) Dave Sherry, Marine Safety Office Boston, Waterways Management Division, at (617) 223–3006.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after **Federal Register** publication. Conclusive information about this event was not provided to the Coast Guard until June 22, 2001, making it impossible to draft or publish a NPRM or a final rule 30 days in advance of its effective date. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to prevent traffic from transiting a portion of the Chelsea River, Boston, Massachusetts, and provide for the safety of life on navigable waters. Additionally, this temporary safety zone only closes the waterway for a 2-day and 3-day period and should have negligible impact on vessel transits due to the fact that vessels are not precluded from using any portion of the waterway upstream or downstream except the safety zone area itself, public notifications will be made prior to the effective period via safety marine information broadcasts and local notice to mariners.

Background and Purpose

This regulation establishes a safety zone one hundred (100) yards upstream and downstream of the McArdle Bridge in Boston Harbor. The safety zone will be in effect for two closure periods: the first from 6 a.m. to 6 p.m. on June 27 until 29, 2001; and the second from sunrise on July 10 until sunrise on July 13, 2001.

The safety zone restricts movement within this portion of Boston Harbor and is needed to allow the Great Lakes Dredge Company to conduct dredging in the vicinity of the McArdle Bridge. The Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via safety marine information broadcasts and local notice to mariners.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation will prevent traffic from transiting a portion of Boston Harbor during the effective periods, the effects of this regulation will not be significant due to the planning that took place between marine and cargo stakeholders and Coast Guard Marine Safety Office Boston representatives. To minimize impact on the port community it was decided that these new channel closures should overlap previously scheduled closures published in the **Federal Register** (66 FR 21284, April 30, 2001) under CGD01–01–021. Other elements reducing the impact of this regulation include: the minimal time that vessels will be restricted from the area and the advance notifications which will be made to the local maritime community by safety marine information broadcasts and local notice to mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in

a portion of Chelsea River between June 27, 2001 and July 13, 2001, during the designated closures. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the minimal time that vessels will be restricted from the area and the advance notifications which will be made to the local maritime community by safety marine information broadcasts and local notice to mariners.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. The Coast Guard coordinated a meeting to achieve this on June 21, 2001.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard analyzed this rule under Executive Order 13132 and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not pose an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lC, this proposed rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.

2. Add temporary § 165.T01–107 to read as follows:

§ 165.T01–107 Safety Zone: McArdle Bridge Dredge Operations—Boston, Massachusetts

(a) *Location.* The following area is a safety zone: All waters of Boston Inner Harbor one hundred (100) yards upstream and downstream of the McArdle Bridge, Boston, MA.

(b) *Effective date.* This section will be enforced from 6 a.m. to 6 p.m. on June 27 through June 29, 2001, and from sunrise on July 10 until sunrise on July 13, 2001.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: June 27, 2001.

B.M. Salerno,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 01–17382 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD07–01–048]

RIN 2115–AA97

Safety Zone; Ashley River, Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the safety zone in front of Brittlebank

Park on the Ashley River, South Carolina. The zone was created for fireworks displays launched from a barge in the Ashley River. The zone is no longer needed because the fireworks are now launched from land.

DATES: This section becomes effective on August 10, 2001.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket [CGD07–01–048] and are available for inspection or copying at Marine Safety Office Charleston, 196 Tradd Street, Charleston, SC 29401–1899, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lt. Paul Dittman, Port Operations Officer, U.S. Coast Guard Marine Safety Office, Charleston, SC (843) 724–7684.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that publishing an NPRM is unnecessary because this rule removes a safety zone that is no longer needed because fireworks are no longer launched or exploded over the River.

Background and Purpose

The rule creating the safety zone was published in the **Federal Register** (56 FR 30508) on July 3, 1991. The rule established a safety zone around a barge that launched fireworks every year on the Fourth of July. The safety zone was needed to prevent damage or injury from falling fireworks debris and to prevent the accidental discharge of the fireworks prior to their launching. The regulation was in effect July 4 each year. Starting in 2000 the fireworks launch area was moved inland. The safety zone is no longer needed and the Coast Guard is removing the regulation.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities because this rule removes an obsolete safety zone.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small business may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.lC, this proposed rule is categorically excluded from further environmental documentation.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a

significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g); 6.04–1, 6.04–6. 160.5; 49 CFR 1.46.

§ 165.713 [Removed]

2. Remove § 165.713.

Dated: July 2, 2001.

G.W. Merrick,

Commander, U.S. Coast Guard, Captain of the Port, Charleston, South Carolina.

[FR Doc. 01–17405 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 071–0283; FRL–6997–6]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District, Monterey Bay Unified Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of revisions to the Imperial County Air Pollution Control District (ICAPCD) portion and Monterey Bay Unified Air Pollution Control District (MBUAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on December 15, 2000 and concerns PM–10 emissions from livestock feed lots and from agricultural burning. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves local rules that regulate these emission sources and directs California to correct rule deficiencies.

EPA is also finalizing full approval of revisions to the ICAPCD portion of the California SIP concerning definitions, PM–10 emissions from orchard heaters, incinerators, open burning, and range improvement burning; to the South Coast Air Quality Management District (SCAQMD) portion concerning PM–10 emissions from restaurant operations; and to the MBUAPCD portion concerning exceptions to other rules.

EPA is deferring to a separate action revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California SIP concerning PM–10 emissions from industrial processes and from residential wood combustion.

EFFECTIVE DATE: This rule is effective on August 10, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted rule revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Imperial County Air Pollution Control District, 150 South Ninth Street, El Centro, CA 92243.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726.

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 744–1135.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On December 15, 2000 (65 FR 78434), EPA proposed a limited approval and limited disapproval of the rules in Table 1 that were submitted by CARB for incorporation into the California SIP.

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
ICAPCD	420	Livestock Feed Yards	9/14/99	5/26/00
ICAPCD	701	Agricultural Burning	9/14/99	5/26/00
MBUAPCD	403	Particulate Matter	3/22/00	5/26/00
SJVUAPCD	4201	Particulate Matter Concentration	12/17/92	11/18/93
SJVUAPCD	4901	Residential Wood Burning	7/15/93	12/10/93

We proposed a limited approval because we determined that these rules improve the SIP and are largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the CAA and have limited enforceability.

On December 15, 2000 (65 FR 78434), we also proposed a full approval of the adoption or recision of the rules in Table 2 that were submitted by CARB for incorporation into or removal from the California SIP.

TABLE 2.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted or rescinded	Submitted
ICAPCD	101	Definitions	9/14/99	5/26/00
ICAPCD	408	Frost Protection	9/14/99	5/26/00

TABLE 2.—SUBMITTED RULES—Continued

Local agency	Rule No.	Rule title	Adopted or rescinded	Submitted
ICAPCD	409	Incinerators	9/14/99	5/26/00
ICAPCD	421	Open Burning	9/14/99	5/26/00
ICAPCD	702	Range Improvement Burning	9/14/99	5/26/00
MBUAPCD	405	Exceptions	3/22/00 (Rescinded)	5/26/00
MBUAPCD	406	Additional Exception	3/22/00 (Rescinded)	5/26/00
SCAQMD	1138	Control of Emissions from Restaurant Operations	11/14/97	3/10/98

Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments on SJVUAPCD Rules 4201 and 4901. We will address these comments in a separate action.

III. EPA Action

We are not taking action on SJVUAPCD Rules 4201 and 4901 at this time. No comments were submitted that change our assessment of the other rules as described in our proposed action. Therefore, as authorized in sections 110(k)(3) and 301(a) of the CAA, EPA is finalizing a limited approval of submitted rule MBUAPCD Rule 403. This action incorporates the submitted rule into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rule. No sanctions will be imposed for MBUAPCD Rule 403, because the area is PM–10 attainment and the rule is not required to maintain attainment.

EPA is also finalizing a limited approval of submitted rules ICAPCD Rules 420 and 701. This action incorporates the submitted rules into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rules. As a result, sanctions will be imposed for ICAPCD Rules 420 and 701 unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the Act as described in 59 FR 39832 (August 4, 1994). In addition, EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. Note that the submitted rules have been adopted by the local agencies, and EPA's final limited disapproval does not prevent the local agency from enforcing them.

EPA is finalizing full approval of submitted rules ICAPCD Rule 101, ICAPCD Rule 408, ICAPCD Rule 409, ICAPCD Rule 421, ICAPCD Rule 702, and SCAQMD Rule 1138 for incorporation into the California SIP. EPA is finalizing full approval of the recision of submitted rules MBUAPCD Rule 405 and MBUAPCD Rule 406 from the California SIP.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. E.O. 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under E.O. 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in E.O. 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA

to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

EPA's disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

H. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 10, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 18, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(159)(iii)(C), (c)(254)(i)(D)(*5*), (c)(279)(i)(A)(*2*), and (c)(279)(i)(B)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(159) * * *

(iii) * * *

(C) Previously approved on July 13, 1987 in (c)(159)(iii)(A) of this section

and now deleted without replacement Rules 405 and 406.

* * * * *

(254) * * *

(i) * * *

(D) * * *

(*5*) Rule 1138, adopted on November 14, 1997.

* * * * *

(279) * * *

(i) * * *

(A) * * *

(*2*) Rules 101, 408, 409, 420, 421, 701, and 702, adopted on September 14, 1999.

(B) * * *

(*2*) Rule 403, adopted on March 22, 2000.

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[FR Doc. 01–17201 Filed 7–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7009–6]

Approval of Section 112(l) Program of Delegation; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving, through a ''direct final'' procedure, a request for delegation of the Federal air toxics program. The State's mechanism of delegation involves the straight delegation of all existing and future section 112 standards unchanged from the Federal standards. The actual delegation of authority of individual standards, except standards addressed specifically in this action, will occur through a mechanism set forth in a memorandum of agreement (MOA) between the Ohio Environmental Protection Agency (OEPA) and EPA. This request for approval of a mechanism of delegation encompasses all part 70 and non-part 70 sources subject to a section 112 standard with the exception of the Coke Oven standard.

DATES: The ''direct final'' is effective on September 10, 2001, unless EPA receives adverse or critical written comments by August 10, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: Pamela Blakely, Chief, Permits and Grants Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and other supporting information used in developing the approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR–18J, Chicago, Illinois, 60604. Please contact Genevieve Damico at (312) 353–4761 to arrange a time if inspection of the submittal is desired.

FOR FURTHER INFORMATION CONTACT: Genevieve Damico, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 353–4761, damico.genevieve@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Why Are We Delegating This Program to OEPA?

Section 112(l) of the Act enables the EPA to delegate Federal air toxics programs or rules to be implemented by States in State air toxics programs. The Federal air toxics program implements the requirements found in section 112 of the Act pertaining to the regulation of hazardous air pollutants. Approval of an air toxics program is granted by the EPA if the Agency finds that the State program: (1) Is no less stringent than the corresponding Federal program or rule, (2) the State has adequate authority and resources to implement the program for all sources, (3) the schedule for implementation and compliance is sufficiently expeditious, and (4) the program is otherwise in compliance with Federal guidance. Once approval is granted, the air toxics program can be implemented and enforced by State or local agencies, as well as EPA. Implementation by local agencies is dependent upon appropriate subdelegation.

II. What Is the History of This Request for Delegation?

On March 31, 1995, Ohio submitted to EPA a request for delegation of authority to implement and enforce the air toxics program under section 112 of the Act. Additional letters supplementing this request were sent on June 27, 1995, August 23, 1996, June 1, 1999, and July 8, 1999. On July 22, 1999, EPA found the State's submittal complete. OEPA notified us through a letter dated December 13, 2000, that it is not requesting delegation of the Coke Oven standard (40 CFR part 63, subpart L). In this document EPA is taking final action to approve the program of delegation for Ohio for part 70 and non-part 70 sources with the exception of sources subject to the Coke Oven standard (40 CFR part 63, subpart L).

III. How Will OEPA Implement This Delegation?

Requirements for approval, specified in section 112(l)(5), require that a State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule. These requirements are also requirements for an adequate operating permits program under part 70 (40 CFR 70.4). In an August 15, 1995 rulemaking, EPA promulgated a final full approval under part 70 of the State of Ohio's Operating Permit Program. The document did not include the approval of a 112(l) mechanism for delegation of all section 112 standards for sources subject to the part 70 program. Sources subject to the part 70 program are those sources that are operating pursuant to a part 70 permit issued by the State, local agency or EPA. Sources not subject to the part 70 program are those sources that are not required to obtain a part 70 permit from either the State, local agency or EPA (see 40 CFR 70.3).

This Ohio program of delegation will not include delegation of section 112(r) authority. (The 112(r) program has been delegated to OEPA under a separate document.) The program will, however, include the delegation of the 40 CFR part 63 general provisions to the extent that they are not reserved to the EPA and are delegable to the State, as set forth at 65 FR 55810 (September 14, 2000).

As stated above, this document constitutes EPA's approval of Ohio's program of straight delegation of all existing and future air toxics standards, except for section 112(r) standards and the Coke Oven standard. Straight delegation means that the State will not promulgate individual State rules for each section 112 standard promulgated by EPA, but will implement and enforce without change the section 112 standards promulgated by EPA. The Ohio program of straight delegation is as follows: Upon promulgation of a section 112 standard, OEPA will issue or reopen the appropriate permit to include the section 112 standard for sources which are subject according to the permit issuance schedule in the MOA. OEPA will be able to implement and enforce the terms of the permit containing the section 112 standard requirement. OEPA must notify EPA within 45 days of the final promulgation of the standard if OEPA does not intend to take delegation of the standard. OEPA will incorporate section 112 standards into the Title V permits, new source review

permits and federally enforceable state operating permits according to the schedule of implementation in the MOA for each source in Ohio subject to the section 112 standard. The delegation will be implemented on a source by source basis upon the issuance of the applicable permit to that source. Ohio will assume responsibility for the timely implementation and enforcement required by each standard, as well as any further activities agreed to by OEPA and EPA. Some activities necessary for effective implementation of a standard include receipt of initial notifications, recordkeeping, reporting and generally assuring that sources subject to a standard are aware of its existence. When deemed appropriate, OEPA will utilize the resources of its Small Business Assistance Program to assist in general program implementation. The details of this delegation mechanism will be set forth in a memorandum of agreement between EPA and OEPA, copies of which will be placed in the docket associated with this rulemaking.

IV. What Requirements Did OEPA Meet To Receive Today's Approval?

On November 26, 1993, EPA promulgated regulations to provide guidance relating to the approval of State programs under section 112(l) of the Act. 40 FR 62262. These rules were revised on September 14, 2000. 40 FR 55809. That rulemaking outlined the requirements of approval with respect to various delegation options. The requirements for approval pursuant to section 112(l)(5) of the Act, for a program to implement and enforce Federal section 112 rules as promulgated without changes, are found at 40 CFR 63.91. Any request for approval must meet all section 112(l) approval criteria, as well as all approval criteria of § 63.91. A more detailed analysis of the State's submittal pursuant to § 63.91 is contained in the Technical Support Document included in the official file for this rulemaking.

Under section 112(l) of the Act, approval of a State program is granted by the EPA if the Agency finds that: (1) It is ''no less stringent'' than the corresponding Federal program, (2) the State has adequate authority and resources to implement the program for all sources, (3) the schedule for implementation and compliance is sufficiently expeditious, and (4) the program is otherwise in compliance with Federal guidance.

V. How Did OEPA Meet the Approval Criteria?

EPA is approving Ohio's mechanism of delegation because the State's submittal meets all requirements necessary for approval under section 112(l). The first requirement is that the program be no less stringent than the Federal program. The Ohio program is no less stringent than the corresponding Federal program or rule because the State has requested straight delegation of all standards unchanged from the Federal standards. Second, the State has shown that it has adequate authority and resources to implement the program. The Ohio Statutes authorize OEPA to require and issue Title V permits to part 70 sources and new source review permits and federally enforceable state operating permits to non-part 70 sources of regulated pollutants to assure compliance with all applicable requirements of the Act. The authority to issue permits includes the authority to incorporate permit conditions that implement Federal section 112 standards. Furthermore, Ohio has the authority to implement each section 112 regulation, emission standard or requirement, perform inspections, request compliance information, incorporate requirements into permits, and bring civil and criminal enforcement actions to recover penalties and fines. OEPA will enforce section 112 standards applicable to part 70 sources by including such section 112 standards in Title V operating permits according to the schedule in the MOA. For section 112 standards applicable to non-part 70 sources by including such section 112 standards in new source review and federally enforceable state operating permits according to the schedule in the MOA. Regardless of type of permit holding the requirements of the standard, the permit must be effective prior to the first substantial compliance date for all future standards. Adequate resources will be obtained through State matching funds, and through any monies from the State's Title V program that can be used to fund acceptable Title V activities.

Third, upon promulgation of a standard, Ohio will immediately begin activities necessary for timely implementation of the standard. These activities will involve identifying sources subject to the applicable requirements and notifying these sources of the applicable requirements. Such schedule is sufficiently expeditious for approval.

Fourth, nothing in the Ohio program for straight delegation is contrary to Federal guidance.

VI. How Are Sources Subject to the Coke Oven Standard (40 CFR Part 63, Subpart L) Going To Be Handled Since OEPA Did Not Accept Delegation of This Standard?

OEPA notified us through a letter dated December 13, 2000, that it is not requesting delegation of the Coke Oven standard (40 CFR part 63, subpart L). Since OEPA is not accepting delegation of the Coke Oven standard, EPA will be the primary enforcement authority. The Coke Oven standard remains an applicable requirement for the sources subject to this standard. Therefore, OEPA must include the standard as an applicable requirement in Title V permits for subject sources and sources subject to this standard must continue to comply with its requirements.

VII. How Will Applicability Determinations Under Section 112 Be Made?

In approving this delegation, the State will obtain concurrence from EPA on any matter involving the interpretation of section 112 of the Clean Air Act or 40 CFR part 63 to the extent that implementation, administration, or enforcement of these sections have not been covered by EPA determinations or guidance.

VIII. What Is Today's Final Action?

The EPA is promulgating final approval of the June 1, 1999, request by the State of Ohio of a mechanism for straight delegation of section 112 standards unchanged from Federal standards because the request meets all requirements of 40 CFR 63.91 and section 112(l) of the Act as it applies to part 70 and non-part 70 sources. After the effective date of this document, upon signing of the MOA and the issuance of the appropriate permit, the implementation and enforcement of all existing section 112 standards applicable to the part 70 or non-part 70 sources, excluding the Coke Oven standard (40 CFR part 63, subpart L) and section 112(r), which have been incorporated into the appropriate permits (Title V, New Source Review, or federally enforceable state operating permit), are delegated to the State of Ohio. As for the section 112 standards which have not yet been incorporated into permits, the implementation authority for these standards is delegated to the State of Ohio after the effective date of this action, upon signing of the MOA, and the issuance of the appropriate permit containing that standard. The enforcement authority and the future delegation of the section 112 standards to the State will occur

according to the procedures outlined in the MOA.

Effective immediately, all notifications, reports and other correspondence required under section 112 standards should be sent to the State of Ohio after the permit is issued. Affected sources should send this information to: Robert F. Hodanbosi, Division of Air Pollution Control, OEPA, 122 South Front Street, P.O. Box 1049, Columbus, Ohio 43266–7049

EPA is publishing this action without prior proposal because EPA views this action as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the State Plan should adverse or critical written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by August 10, 2001. Should EPA receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on September 10, 2001.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any State plan. Each request for revision to a State Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IX. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective September 10, 2001 unless EPA receives adverse written comments by August 10, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 10, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air Pollution control, Hazardous substances, Intergovernmental relations.

(Authority: 42 U.S.C. 7401, *et seq.*)

Dated: June 19, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–17072 Filed 7–10–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 310

[Docket No. MARAD–2001–10056]

Service Obligation Reporting Requirements for United States Merchant Marine Academy and State Maritime School Graduates

AGENCY: Maritime Administration, Transportation.

ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD, we, our, or us) is amending the employment reporting requirements for United States Merchant Marine Academy (USMMA) graduates and graduates receiving student incentive payments at state maritime schools. The

new rule will allow a USMMA or state maritime school graduate to submit his or her employment report 13 months following his or her graduation and each succeeding 12 months for a total of five consecutive years for USMMA graduates and three years for state maritime school graduates. The intended effect of this rulemaking is to provide all graduates (whether June or deferred) an equal amount of months to report employment under their service obligations rather than require a July 1 report date for all graduates including those having deferred graduation dates. This rule is noncontroversial and allows a timely as well as fair and efficient reporting criterion.

DATES: The effective date of this final rule is July 11, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Taylor E. Jones II, Office of Maritime Labor, Training, and Safety, (202) 366–5755. You may send mail to Mr. Jones at Maritime Administration, Office of Maritime Labor, Training, and Safety, MAR–250, Room 7302, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

The USMMA and state maritime schools require a midshipman/cadet who is a U.S. citizen and who enters the USMMA or a state maritime school in the student incentive payment (SIP) program after April 1, 1982 to sign a service obligation contract which obligates the midshipman/cadet to certain post graduate employment. Prior regulations required an employment reporting date of July 1 for all USMMA and state maritime school SIP graduates irrespective of whether the graduation date was in June or deferred. This presented a situation in which some graduates were allowed less time to submit an employment report under their service obligations. This final rule will allow a USMMA or state maritime school SIP graduate to submit his or her employment report 13 months following his or her graduation and each succeeding 12 months for a total of five consecutive years for USMMA graduates and for a total of three years for state maritime school SIP graduates. This will afford all graduates (whether June or deferred) an equal amount of months to report employment under their service obligations rather than require a July 1 report date for all graduates including those having deferred graduation dates.

This rulemaking does not require notice and comment because it is a rule of agency organization, procedure, and practice (5 U.S.C. 553(b)). Additionally, we find good cause under 5 U.S.C. 553(d) to make this final rule effective upon publication because this rule is noncontroversial and allows a timely as well as fair and efficient reporting criterion. An immediate effective date of this final rule will provide USMMA and state maritime school (SIP) graduates with equal reporting time irrespective of graduation date.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This final rule is not likely to result in an annual effect on the economy of $100 million or more. This final rule is also not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979). The economic impact, if any, should be so minimal that no further regulatory evaluation is necessary. This final rule is intended only to allow timely as well as fair and efficient employment reporting criterion.

Regulatory Flexibility Act

MARAD certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule only provides an equal reporting time for all USMMA and state maritime school graduates irrespective of graduation date.

Federalism

We analyzed this final rule in accordance with the principles and criteria contained in E.O. 13132 (''Federalism'') and have determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. These regulations have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Therefore, consultation with State and local officials was not necessary.

Executive Order 13175

MARAD does not believe that this final rule will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Therefore, the funding and consultation requirements of this Executive Order would not apply.

Environmental Impact Statement

We have analyzed this final rule for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and have concluded that under the categorical exclusions provision in section 4.05 of Maritime Administrative Order (''MAO'') 600–1, Procedures for Considering Environmental Impacts, 50 FR 11606 (March 22, 1985), the preparation of an Environmental Assessment and an Environmental Impact Statement, or a Finding of No Significant Impact for this final rule is not required. This final rule involves administrative and procedural regulations that have no environmental impact.

Unfunded Mandates Reform Act of 1995

This final rule does not impose an unfunded mandate under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector. This final rule is the least burdensome alternative that achieves the objective of the rule.

Paperwork Reduction Act

This final rule contains information collection requirements covered by OMB approval number 2133–0509, under 5 CFR part 1320, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 46 CFR Part 310

Grant programs-education, Reporting and recordkeeping requirements, Schools, and Seamen

Accordingly, for the reasons discussed in the preamble, 46 CFR part 310, is amended as follows:

1. The authority citation for part 310 continues to read as follows:

Authority: 46 App. U.S.C. 1295; 49 CFR 1.66.

2. In § 310.7, paragraph (b)(6) is revised to read as follows:

§ 310.7 Federal student subsistence allowances and student incentive payments.

* * * * *

(b) * * *

(6) *Reporting requirement.* (i) The schools must promptly submit copies of all resignation forms (containing the name, reason, address and telephone number) of juniors and seniors to the Supervisor, to be used for monitoring and enforcement purposes. Each

graduate must submit an employment report form to the Maritime Administration (Supervisor) 13 months following his or her graduation and each succeeding 12 months for three years to: Academies Program Officer, Office of Maritime Labor and Training, Maritime Administration, NASSIF Building, 400 7th St., SW., Washington, DC 20590. In case a deferment has been granted to engage in a graduate course of study, semi-annual reports must be submitted for any extension of the three (3) year obligation period resulting from such deferments. The examples follow:

Example 1: Midshipman graduates on June 30, 2001. His first reporting date is July 1, 2002 and thereafter for 3 consecutive years.

Example 2: Midshipman has a deferred graduation on November 30, 2001. His first reporting date is December 1, 2002 and thereafter for 3 consecutive years.

(ii) The Maritime Administration will provide reporting forms. However, non-receipt of such form will not exempt a graduate from submitting employment information as required by this paragraph. The reporting form has been approved by the Office of Management and Budget (2133–0509).

3. Section 310.58 is amended by revising paragraph (d) as follows:

* * * * *

(d) *Reporting requirements.* (1) Each graduate must submit an employment report form 13 months following his or her graduation and each succeeding 12 months for a total of five consecutive years to: Academies Program Officer, Office of Maritime Labor and Training, Maritime Administration, NASSIF Building, 400 7th St., SW., Washington, DC 20590.

Example 1: Midshipman graduates on June 30, 2001. His first reporting date is July 1, 2002 and thereafter for 5 consecutive years.

Example 2: Midshipman has a deferred graduation on November 30, 2001. His first reporting date is December 1, 2002 and thereafter for 5 consecutive years.

(2) The Maritime Administration will provide reporting forms. However, non-receipt of such form will not exempt a graduate from submitting employment information as required by this paragraph. The reporting form has been approved by the Office of Management and Budget (2133–0509).

Dated: July 5, 2001.

By Order of the Acting Deputy Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–17217 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–81–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 01–76; FCC 01–196]

Assessment and Collection of Regulatory Fees for Fiscal Year 2001

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: The Commission will revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress has required it to collect for fiscal year 2001. Section 9 of the Communications Act of 1934, as amended, provides for the annual assessment and collection of regulatory fees under sections 9(b)(2) and 9(b)(3), respectively, for annual ''Mandatory Adjustments'' and ''Permitted Amendments'' to the Schedule of Regulatory Fees.

EFFECTIVE DATE: September 9, 2001.

FOR FURTHER INFORMATION CONTACT: Terry Johnson, Office of Managing Director at (202) 418–0445 or Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION:

Adopted: June 28, 2001.

Released: July 2, 2001.

By the Commission:

Table of Contents

I. Introduction

1. By this *Report and Order,* the Commission concludes a proceeding to revise its Schedule of Regulatory Fees to collect the amount of regulatory fees that Congress, pursuant to section 9(a) of the Communications Act, as amended, has required us to collect for Fiscal Year (FY) 2001.[1]

2. Congress has required that we collect $200,146,000 through regulatory fees to recover the costs of our competition, enforcement, spectrum management, and consumer information activities for FY 2001.[2] See Attachment G for a description of these activities. This amount is $14,392,000 or approximately 7.75% more than the amount that Congress designated for

[1] 47 U.S.C. 159(a).

[2] Public Law 106–553 and 47 U.S.C. 159(a)(2).

recovery through regulatory fees for FY 2000.[3] We are revising our fees in order to collect the amount that Congress has specified, as illustrated in a new fee schedule in Attachment D.

3. In revising our fees, we adjusted the payment units and revenue requirement for each service subject to a fee, consistent with section 159(b)(2). The current Schedule of Regulatory Fees is set forth in §§ 1.1152 through 1.1156 of the Commission's rules.[4]

II. Background

4. Section 9(a) of the Communications Act of 1934, as amended, authorizes the Commission to assess and collect annual regulatory fees to recover the costs, as determined annually by Congress, that it incurs in carrying out enforcement, policy and rulemaking, international, and user information activities.[5] In our *FY 1994 Fee Order,*[6] we adopted the Schedule of Regulatory Fees that Congress established, and we prescribed rules to govern payment of the fees, as required by Congress.[7] Subsequently, we modified the fee schedule to increase the fees in accordance with the amounts Congress required us to collect in each succeeding fiscal year. We are also amending the rules governing our regulatory fee program based upon our prior experience in administering the program.[8]

5. As noted, for FY 1994 (59 FR 30984, June 16, 1994) we adopted the Schedule of Regulatory Fees established in section 9(g) of the Act. For fiscal years after FY 1994, however, sections 9(b)(2) and 9(b)(3), respectively, provide for ''Mandatory Adjustments'' and ''Permitted Amendments'' to the Schedule of Regulatory Fees.[9] Section 9(b)(2), entitled ''Mandatory Adjustments,'' requires that we revise the Schedule of Regulatory Fees to reflect the amount that Congress requires us to recover through regulatory fees.[10]

6. Section 9(b)(3), entitled ''Permitted Amendments,'' requires that we determine annually whether additional adjustments to the fees are warranted, taking into account factors that are in the public interest, as well as issues that are reasonably related to the payer of the fee. These amendments permit us to ''add, delete, or reclassify services in the Schedule to reflect additions, deletions or changes in the nature of its services * * *'' [11]

7. Section 9(i) requires that we develop accounting systems necessary to adjust our fees pursuant to changes in the cost of regulating various services that are subject to a fee, and for other purposes.[12] The Commission is in the process of planning a new cost accounting system, which we expect to be in place in FY 2002. For FY 1997 (62 FR 59822, November 5, 1997), we relied for the first time on cost accounting data to identify our regulatory costs and to develop our FY 1997 fees based upon these costs. Also, in FY 1997, we found that some fee categories received disproportionately high cost allocations. We adjusted for these high cost allocations by redistributing the costs, and maintained a 25% limit on the extent in which service fee categories can be increased. We believed that this 25% limit would enable cost-based service fees to be implemented more gradually over time. We thought that this methodology, which we continued to use for FY 1998 (63 FR 35847, July 1, 1998), would enable us to develop a regulatory fees schedule that reflected our cost of regulation. Over time, as the cost of regulation increases or decreases, this methodology would enable us to revise the fee schedule to reflect those services whose regulatory costs had changed.

8. However, we found that developing a regulatory fee structure based on available cost information sometimes did not permit us to recover the amount that Congress required us to collect. In some instances, the large increases in the cost of regulation did not normalize to an acceptable level. We concluded that it would be best to discontinue attempts to base the entire schedule on our available cost data. Instead, we chose to base the FY 1999 (64 FR 35831, July 1, 1999) and FY 2000 (65 FR 44575, July 18, 2000) fees on the basis of ''Mandatory Adjustments'' only. We have found no reason to deviate from this policy for FY 2001. However, we are applying the ''Mandatory Adjustments'' differently to better incorporate changes in payment units. As noted above, however, we expect to have a new cost accounting system in place in FY 2002. Finally, section 9(b)(4)(B) requires us to notify Congress of any permitted amendments 90 days before those amendments go into effect.[13]

III. Discussion

A. Summary of FY 2001 Fee Methodology

9. As noted above, Congress has required that the Commission recover $200,146,000 for FY 2001 through the collection of regulatory fees, representing the costs applicable to our enforcement, policy and rulemaking, international, and user information activities.[14]

10. In developing our FY 2001 fee schedule, we first estimated the number of payment units [15] for FY 2001. Then we compared the FY 2000 revenue estimate amount to the $200,146,000 that Congress has required us to collect in FY 2001 and pro-rated the difference among all the existing fee categories. Finally, we divided the FY 2001 payment unit estimates into the pro-rated FY 2001 revenue estimates to determine the new FY 2001 fees. See Attachment C.

11. Once we established our tentative FY 2001 fees, we evaluated proposals made by Commission staff concerning ''Permitted Amendments'' to the Fee Schedule and to our collection procedures. However, we are not making any ''Permitted Amendments.'' Collection procedure matters are discussed in paragraphs 31–37.

12. Finally, we have incorporated, as Attachment F, proposed Guidance containing detailed descriptions of each fee category, information on the individual or entity responsible for paying a particular fee and other critical information designed to assist potential fee payers in determining the extent of their fee liability, if any, for FY 2001. In the following paragraphs, we describe in greater detail our methodology for establishing our FY 2001 regulatory fees.

[3] *Assessment and Collection of Regulatory Fees for Fiscal Year 2000.* 65 FR 44576 (2000).

[4] 47 CFR 1.1152 through 1.1156.

[5] 47 U.S.C. 159(a).

[6] 59 FR 30984, June 16, 1994.

[7] 47 U.S.C. 159(b), (f)(1).

[8] 47 CFR 1.1151 *et seq.*

[9] 47 U.S.C. 159(b)(2), (b)(3).

[10] 47 U.S.C. 159(b)(2).

[11] 47 U.S.C. 159(b)(3).

[12] 47 U.S.C. 159(i).

[13] 47 U.S.C. 159(b)(4)(B).

[14] 47 U.S.C. 159(a).

[15] Payment units are the number of subscribers, mobile units, pagers, cellular telephones, licenses, call signs, adjusted gross revenue dollars, etc. which represent the base volumes against which fee amounts are calculated.

B. Development of FY 2001 Fees

i. Adjustment of Payment Units

13. In calculating FY 2001 regulatory fees for each service, we adjusted the estimated payment units for each service because of substantial changes in payment units for many services since adopting our FY 2000 fees. We obtained our estimated payment units through a variety of means, including our licensee data bases, actual prior year payment records, and industry and trade group projections. Whenever possible, we verified these estimates from multiple sources to ensure accuracy of these estimates. Attachment B summarizes how revised payment units were determined for each fee category.[16]

ii. Calculation of Revenue Requirements

14. We compared the sum of all estimated revenue requirements for FY 2000 to the amount that Congress has required us to collect for FY 2001 ($200,146,000), which is approximately 7.75% more total revenue than in FY 2000. We increased each FY 2000 fee revenue category estimate by 7.75% to provide a total FY 2001 revenue estimate of $200,146,000. Attachment C provides detailed calculations showing how we determined the revised revenue amounts to be raised for each service.

iii. Recalculation of Fees

15. Once we determined the revenue requirement for each service and class of licensee, we divided the revenue requirement by the number of estimated payment units (and by the license term for ''small'' fees) to obtain actual fee amounts for each fee category. These calculated fee amounts were then rounded in accordance with section 9(b)(2) of the Act. *See* Attachment C.

iv. Discussion of Issues and Changes to Fee Schedule

16. We examined the results of our calculations to determine if further adjustments of the fees and/or changes to payment procedures were warranted based upon the public interest and other criteria established in 47 U.S.C. 159(b)(3). Unless otherwise noted herein, nothing in this proceeding is intended to change any policies or procedures established or reaffirmed in the FY 2000 Order (65 FR 44575).

a. Amateur Vanity Call Signs

17. Amateur licensee Juddie D. Burgess supports the proposal to reduce the amateur vanity call sign regulatory fee for FY 2001, but questions why licensees must continue to pay a regulatory fee upon each renewal. Section 9 of the Communications Act, as amended, provides for recovery of the Commission's costs associated with its enforcement, policy and rulemaking, user information, and international activities.[17] Each day, the Commission's staff is engaged in activities protecting the assignment of vanity call signs from complaints of improper assignment, illegal use of call signs assigned to another, requests to be assigned a call sign already assigned to another, and so forth. We continue to believe that it is appropriate to assess a regulatory fee at the time of renewal upon holders of amateur vanity call signs.

b. Multipoint Distribution Service (MDS)

18. WorldCom, Inc. (''WorldCom'') objects to the amount of increase proposed for MDS licensees, from $275 in FY 2000 to $450 in FY 2001, an increase of 64 percent. WorldCom argues that sections 9(i) and 9(b)(3) of the Communications Act, as amended, require regulatory fees to be based on the cost of regulating each industry, and contends that the Commission's methodology, which relies on a proportional increase in the fees allotted to each service, is contrary to these provisions. In any event, WorldCom asks the Commission to make a permitted amendment under section 9(b)(3) to reduce the MDS fee to eliminate the allegedly discriminatory treatment of MDS. WorldCom argues that the proposed 64 percent increase in the MDS fee does not reflect a 64 percent increase in regulatory costs, but rather reflects the fact that the Commission's estimate of the number of MDS licenses dropped from 3,036 to 2,000 following an update of the Commission's database. WorldCom asserts that there is no justification for raising the fee based on this factor and proposes that the fee be raised to no more than $295, reflecting the 7.75 percent proportional increase in revenues for FY 2001. Alternatively, WorldCom proposes that the increase in fees be limited to 25 percent, as was done in FY 1997, which would result in a fee of $345.

19. As to WorldCom's general disagreement with our ''mandatory adjustment'' methodology, we disagree that this methodology violates the statutory requirement of basing fees on costs. Our previous use, through FY 1998, of a cost-based accounting system represented our best efforts to take into account all of the statutory criteria for determining fees, and we are confident that we did so to the extent permitted by the accounting system available to us. As we learned in FY 1997 and FY 1998, however, the existing cost accounting system did not allow us to fully match costs with appropriations, resulting in a shortfall in the revenues we would collect through fees. This has required us to adopt a procedure to ''normalize'' the revenue required from each service to meet the statutory requirement of fully funding our appropriations through fees. Attempting to use the available inadequate cost accounting system to recalculate costs does not, in our view, provide a means to ameliorate the situation. We believe that the mandatory adjustment methodology we proposed for FY 2001 represents the most valid method of normalizing revenue requirements pending the development of an improved cost accounting system and thereby enables us to best comply with the statute.

20. We do not believe that WorldCom has justified making a ''permitted'' amendment although the 64 percent increase in fees to which it would be subject is substantial. The increase in fees merely represents the use of updated, more accurate figures for the number of payment units. The use of more accurate data does not necessitate any amendment in order to conform to the standards of the statute. We recognize, as WorldCom points out, that our methodology might result in some anomalies, such as in the case of the international public fixed service, where it is estimated that there is only one licensee. In such cases, we would consider granting a partial waiver. We do not, however, consider the MDS fee to fall within this category.

21. The Wireless Communications Association International, Inc. (''WCA'') seeks clarification that the MDS fee applies only to the ''master'' call sign, and not to any separate response hub and booster call signs associated with the ''master'' call sign. Likewise, IPWireless, Inc. requests clarification for the MMDS stations referring to the ''lead'' call sign rather than response station hubs and booster stations. Sprint Corporation, in its reply comments, supports the positions of WCA and WorldCom. For FY 2001, the

[16] It is important to note also that Congress required a revenue increase in regulatory fee payments of approximately 7.75 percent in FY 2001, which will not fall equally on all payers because payment units have changed in several services. When the number of payment units in a sesrvice increased from one year to another, fees do not have to rise as much as they would if payment units had decreased or remained stable. Declining payment units have the opposite effect on fees.

[17] 47 U.S.C. 159(a)(1).

Commission has not extended the MDS regulatory fee to response hubs and boosters. We reserve the right to reconsider this decision in the future.

22. Winstar Communications, Inc. (''Winstar'') urges the Commission to reclassify Local Multipoint Distribution Service (LMDS) to place it into the microwave fee category with other part 101 services. We agree with Sprint, however, that, although LMDS and Microwave services may utilize the same equipment, LMDS is operationally similar to MDS and MMDS. This functional categorization has proven adequate for more than two years. Hence, we see no reason to change the classification.

c. Commercial Mobile Radio Services (CMRS)

23. The Cellular Telecommunications & Internet Association (''CTIA'') and Verizon Wireless (''Verizon''), argue that the Commission's mandatory adjustment approach is inconsistent with the requirements of the statute. For the reasons set forth in paragraph 19, above, we reject this argument. CTIA and Verizon also argue that the application of the mandatory adjustment approach has discriminated against fast growing services such as CMRS. CTIA observes that the number of CMRS subscribers has increased by some 62 percent since FY 1999, when the fee was $0.32 per subscriber. CTIA suggests that the CMRS fee should have declined substantially from the FY 1999 level because the total revenue requirement is now divided among more subscribers. Instead, they point out that the proposed FY 2001 fee, $0.30, is only three percent less than it was in FY 2000 (and six percent less than in FY 1999). CTIA and Verizon assert that, as a result, CMRS'' share of revenues has increased from eight percent to 16 percent since FY 1999, and CMRS is effectively subsidizing other services. Verizon proposes that the FY 2001 fee should be no more than $0.18 per subscriber.

24. The arguments of CTIA and Verizon in this regard are misplaced. The methodology we proposed for FY 2001 is intended to avoid the problem that CTIA and Verizon point out. To calculate the revenue requirement for FY 2001, we increased the total revenue for the various services proportionately without regard to the number of payment units in each service. We did not calculate the shortfall by taking last year's fees and applying them to the current number of payment units. CTIA correctly suggests that this rejected method would have resulted in fast growing services absorbing an increased share of revenues, since their growth would reduce the overall shortfall and the need to raise fees in other services. Although this may have been the result in the past, we do not believe it is appropriate to retroactively address past increases in revenues collected from CMRS. Therefore, because there are contrary positions on the impact of rapid growth on regulatory costs, we see no basis for a departure from our current approach until an improved cost accounting system is implemented.

25. CTIA also claims that the Commission has ''wrongfully imposed a burden on CMRS licensees by increasing regulatory fees to compensate for a shortfall in part caused by the Commission's failure to properly enforce its fee schedule.'' The Commission, however, is committed to enforcement of the fee schedule and does not intend to use overpayments as a substitute for enforcement. In this regard, we anticipate that as licensees comply with the FCC Registration Number (FRN) requirements in the future, this will assist us in enforcement. Although our estimates of CMRS growth have taken into account the actual levels of revenue received, we have done this in order to ensure that our estimates are realistic, not to avoid enforcement.

26. Finally, CTIA maintains that ''the Commission's FY 2001 subscriber unit estimate is wrong and thus it has overestimated the CMRS mobile service industry's regulatory fee liability.'' According to CTIA's figures, CMRS subscribership was approximately 109 million in December 2000, not 90 million, as we estimated. We will revise our fee computation for CMRS. The recent *Local Telephone Competition Report, Status as of December 31, 2000,* Industry Analysis Division, Common Carrier Bureau (May 21, 2001), has presented a revised figure for CMRS subscribership of 101,212,054. It is appropriate for us to take this new information into account and revise our fee computation accordingly. Our past experience, however, does not support CTIA's claim that use of its own data is necessary to avoid overpayment by CMRS operators. On the contrary, use of its data has resulted in a shortfall in the fees collected. See *Assessment and Collection of Regulatory Fees for Fiscal Year 1999,* FCC 00–352 (October 10, 2000) at paragraph 7. Accordingly, we modify our estimate of CMRS subscribership to 101 million, resulting in a recomputed fee of $0.27.

d. UHF Television

27. Paxson Communications Corporation (''Paxson'') asserts that fees for UHF television are excessive. In particular, Paxson observes that the fee for UHF construction permits has increased 43 percent over FY 2000 and is now $1,000 higher than for a VHF construction permit (although Congress originally set lower fees for UHF). Paxson asserts that increases in UHF fees are inconsistent with the more favorable treatment of faster growing services, which presumably receive greater regulatory benefits and impose greater regulatory costs. In Paxson's view, UHF television fees should reflect the heavy burden that licensees bear during the digital transition period, UHF's competitive handicaps, and the impact on UHF of downturns in the economy. Paxson asks for interim relief pending the adoption of an adequate cost accounting system.

28. Although Paxson's arguments raise significant questions, they do not provide a reasonably definite basis to recompute fees for UHF television. We therefore decline to make a ''permitted'' amendment in FY 2001. We anticipate that development of a new cost accounting system will be in place for FY 2002 and, at that time, we can re-examine the UHF television fees, as well as other issues.

e. INTELSAT Satellites

29. On June 1, 2001, COMSAT Corporation (COMSAT) submitted an ex parte filing asking the Commission not to impose the geostationary satellite fee on satellites owned by INTELSAT. COMSAT notes that it has appealed the Commission's determination that COMSAT is liable for such fees, and urges that the fee not be collected pending the disposition of this appeal. *See Assessment and Collection of Regulatory Fees for Fiscal Year 2000,* 15 FCC Rcd 14478, 14485–90, paragraphs 17–27 (2000), *appealed sub nom. COMSAT Corp.* v. *FCC,* No. 00–1458 (D.C. Cir. July 14, 2000). For the reasons set for in the FY 2000 fee order, we believe that the fee should be assessed against COMSAT. COMSAT has not sought a stay of the FY 2000 fee order, either before the Commission or the court, and has not demonstrated the prerequisites for a stay. Accordingly, we have included the INTELSAT satellites in our computation of the geostationary satellite fee, and we expect COMSAT to pay its share.

f. Mandatory Use of FCC Registration Number (FRN)

30. In our Notice of Proposed Rulemaking (NPRM), we proposed to require the use of an FRN by anyone subject to the regulatory fee program. We proposed that fee filers, those who

are exempt from regulatory fees, and entities paying on behalf of others, be required to obtain and use the FRNs assigned to them. Furthermore, we sought comment on how to treat submissions that did not contain an FRN at the time that regulatory fee payments are due. We proposed that in those situations, we would afford a 10-day grace period for the filer to obtain and provide the FRN. Finally, we invited comment on whether to impose a penalty on entities subject to these rules, but who did not provide an FRN within the grace period.

31. We did not receive any comments on these issues. We remain convinced that the use of the FRN should be made mandatory for those who are subject to the regulatory fee program, as proposed. Because of unrelated implementation issues, we have decided to resolve the FRN issues raised here, including the effective date of the new requirement, in the pending FRN proceeding.[18] Although the use of the FRN will not be mandatory for the FY 2001 regulatory fee cycle, we strongly encourage entities subject to the regulatory fee program to use the FRN assigned to them so that their payments (or exempt status) can be properly recorded and tracked. Entities not using an FRN may continue to experience delays in the proper recognition of their payments. As a result, these entities (or the entities on whose behalf the payment is being made) will be subject to billing notices and will need to provide information (e.g. cancelled check or other identifying information) showing that they did, in fact, pay their regulatory fees on a timely basis.

C. Procedures for Payment of Regulatory Fees

32. We are retaining the procedures that we have established for the payment of regulatory fees. *See* paragraphs 32–37. Section 9(f) requires that we permit ''payment by installments in the case of fees in large amounts, and in the case of small amounts, shall require the payment of the fee in advance for a number of years not to exceed the term of the license held by the payer.'' *See* 47 U.S.C. 159(f)(1). Consistent with section 9(f), we are again establishing three categories of fee payments, based upon the category of service for which the fee payment is due and the amount of the fee to be paid. The fee categories are: (1) ''standard'' fees, (2) ''large'' fees, and (3) ''small'' fees. With the exception of new payment due dates for FY 2001, the procedures outlined in this section are not new. Procedural text is provided for information and purposes of clarity.

i. Annual Payments of Standard Fees

33. As we have in the past, we are treating regulatory fee payments by certain licensees as ''standard fees'' which are those regulatory fees that are payable in full on an annual basis. Payers of standard fees are not required to make advance payments for their full license term and are not eligible for installment payments. All standard fees are payable in full on the date we establish for payment of fees in their regulatory fee category. The payment dates for each regulatory fee category will begin September 10, 2001 and end at close of business on September 21, 2001.

ii. Installment Payments for Large Fees

34. Time constraints will preclude an opportunity for installment payments. Therefore, regulatees in any category of service will be required to submit their required fees in a single payment by the last day that the regulatory fee payment is due. The payment dates for each regulatory fee category will begin September 10, 2001 and end at close of business on September 21, 2001.

iii. Advance Payments of Small Fees

35. As we have in the past, we are treating regulatory fee payments by certain licensees as ''small'' fees subject to advance payment consistent with the requirements of section 9(f)(2). Advance payments will be required from licensees of those services that we decided would be subject to advance payments in our FY 1994 *Report and Order*, and to those additional payers noted.[19] Payers of advance fees will submit the entire fee due for the full term of their licenses when filing their initial, renewal, or reinstatement application. Regulatees subject to a payment of small fees shall pay the amount due for the current fiscal year multiplied by the number of years in the term of their requested license. In the event that the required fee is adjusted following their payment of the fee, the payer would not be subject to the payment of a new fee until filing an application for renewal or reinstatement of the license. Thus, payment for the full license term would be made based upon the regulatory fee applicable at the time the application is filed. The effective beginning date for payment of small fees established in this proceeding is September 10, 2001, and it will remain in effect until the FY 2002 fee schedule is implemented.

iv. Minimum Fee Payment Liability

36. As we have in the past, we are establishing that regulatees whose total regulatory fee liability, including all categories of fees for which payment is due by an entity, amounts to less than $10 will be exempted from fee payment in FY 2001.

v. Standard Fee Calculations and Payment Dates

37. For licensees and permittees of Mass Media services, the responsibility for payment of regulatory fees normally rests with the holder of the permit or license on October 1, 2000. However, in instances where a Mass Media service license or authorization is transferred or assigned after October 1, 2000, and arrangements to make payment have not been made by the previous licensee, the fee is still due and must be paid by the licensee or holder of the authorization on the date that the fee payment is due. For licensees, permittees and holders of other authorizations in the Common Carrier and Cable Services whose fees are not based on a subscriber, unit, or circuit count, fees must be paid for any authorization issued on or before October 1, 2000. Regulatory fees are due and payable by the holder of record of the license or permit of the service as of October 1, 2000. A pending change in the status of a license or permit that is not granted as of that date is not effective, and the fee is based on the classification that existed on that date. Where a license or authorization is transferred or assigned after October 1, 2000, the fee shall be paid by the licensee or holder of the authorization on the date that the payment is due.

38. For regulatees whose fees are based upon a subscriber, unit or circuit count, the number of a regulatees' subscribers, units or circuits on *December 31, 2000*, will be used to calculate the fee payment.[20] Regulatory

[18] *Adoption of a Mandatory FCC Registration Number,* MD Docket No. 00–205, FCC 00–421 (released December 1, 2000).

[19] Applicants for new, renewal and reinstatement licenses in the following services will be required to pay their regulatory fees in advance: Land Mobile Services, Microwave Services, Marine (Ship) Service, Marine (Coast) Service, Private Land Mobile (Other) Services, Aviation (Aircraft) Service, Aviation (Ground) Service, General Mobile Radio Service (GMRS), 218–219 MHz Service (if any applications should be filed), Rural Radio Service, and Amateur Vanity Call signs.

[20] Cable system operators are to compute their subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. **Note:** Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Cable system operators may base their count on ''a typical

Continued

fees are due and payable by the holder of record of the license or permit of the service as of December 31, 2000. A pending change in the status of a license or permit that is not granted as of that date is not effective, and the fee is based on the classification that existed on that date. Where a license or authorization is transferred or assigned after December 31, 2000, the fee shall be paid by the licensee or holder of the authorization on the date that the payment is due.

D. Schedule of Regulatory Fees

39. The Commission's Schedule of Regulatory Fees for FY 2001 is contained in Attachment D of this *Report and Order*.

E. Revised Rules for Waivers, Reductions, and Deferrals of Application and Regulatory Fees

40. We are also amending §§ 1.1117(c) and 1.1166(a) of the Rules regarding the filing of requests for waivers, reductions and deferrals of both application (Section 8) and regulatory fees (Section 9). We are amending the rules to clarify that all such filings must be filed as separate pleadings, and each pleading must be clearly marked for the attention of the Managing Director. We hope the revised rules will eliminate the confusion regarding the proper filing procedures to be followed for such requests, as well as to facilitate prompt disposition.

F. Enforcement

41. As required in 47 U.S.C. 159(c), an additional charge shall be assessed as a penalty for late payment of any regulatory fee. A late payment penalty of 25 percent of the amount of the required regulatory fee will be assessed on the first day following the deadline date for filing of these fees. Failure to pay the regulatory fees and/or any late penalty will be subject to additional provisions as set forth in the Debt Collection Improvement Act of 1996, as well as 47 CFR 1.1112.

IV. Procedural Matters

A. Ordering Clause

42. Accordingly, it is ordered that the rule changes specified herein be adopted. It is further ordered that the rule changes made herein will become effective September 9, 2001, which is no less than 30 days from the date of publication in the **Federal Register**. A Final Regulatory Flexibility Analysis (FRFA) has been performed and is found in Attachment A, and it is ordered that the Federal Communications Commission's Consumer Information Bureau, Reference Information Center, send this to Small Business Administration (SBA). Finally, it is ordered that this proceeding is terminated.

B. Authority and Further Information

43. This action is taken pursuant to sections 4(i) and (j), 8, 9, and 303(r) of the Communications Act of 1934, as amended.[21]

44. Further information about this proceeding may be obtained by contacting the FCC Consumer Center at (888) 225–5322.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Attachment A.—Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA),[22] an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities was incorporated in the Notice of Proposed Rulemaking, In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2001.[23] The Commission sought written public comments on the proposals in its FY 2001 regulatory fees NPRM, including comments on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[24]

I. Need for, and Objectives of, the Proposed Rules

2. This rulemaking proceeding was initiated to collect regulatory fees in the amount of $200,146,000, the amount that Congress has required the Commission to recover. The Commission seeks to collect the necessary amount through its revised fees, as contained in the attached Schedule of Regulatory Fees, in the most efficient manner possible and without undue burden on the public.

II. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

3. None.

III. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[25] The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''[26] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[27] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[28] A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''[29] Nationwide, as of 1992, there were approximately 275,801 small organizations.[30] ''Small governmental jurisdiction''[31] generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.''[32] As of 1992, there were approximately 85,006 governmental entities in the United States.[33] This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96%, have populations of fewer than 50,000.[34] The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (96%) are small entities. Below, we further describe and estimate the number of small entity

day in the last full week'' of December 2000, rather than on a count as of December 31, 2000.

[21] 47 U.S.C. 154(i)-(j), 159, & 303(r).

[22] 5 U.S.C. 603. The RFA, 5 U.S.C. 601 *et. seq.* has been amended by the Contract With America advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[23] 66 FR 19681 (April 16, 2001).

[24] 5 U.S.C. 604.

[25] 5 U.S.C. 603(b)(3).

[26] 5 U.S.C. 601(6).

[27] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[28] Small Business Act, 15 U.S.C. 632 (1996).

[29] U.S.C. 601(4).

[30] 1992 Economic Census, U.S. Bureau of the Census. Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

[31] 47 CFR 1.1162.

[32] 5 U.S.C. 601(5).

[33] U.S. Dept. of Commerce, Bureau of Census, ''1992 Census of Governments.''

[34] *Id.*

licensees and regulatees that may be affected by these rules.

Cable Services or Systems

5. The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating $11 million or less in revenue annually.[35] This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than $11 million in revenue.[36]

6. The Commission has developed its own definition of a small cable system operator for purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide.[37] Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995.[38] Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators.

7. The Communications Act of 1934, as amended, also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.''[39] The Commission has determined that there are 67,700,000 subscribers in the United States.[40] Therefore, we estimate that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate.[41] Based on available data, we estimate that the number of cable operators serving 677,000 subscribers or less totals 1,450.[42] We do not request nor collect information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000,[43] and therefore are unable at this time to estimate more accurately the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

8. *Other Pay Services.* Other pay television services are also classified under the North American Industry Classification System (NAICS) codes 51321 and 51322, which includes cable systems operators, closed circuit television services, direct broadcast satellite services (DBS),[44] multipoint distribution systems (MDS),[45] satellite master antenna systems (SMATV), and subscription television services.

Common Carrier Services and Related Entities

9. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide appears to be data the Commission publishes annually in its *Carrier Locator* report, which encompasses data compiled from FCC Form 499–A Telecommunications Reporting Worksheets.[46] According to data in the most recent report, there are 4,822 interstate service providers.[47] These providers include, *inter alia,* incumbent local exchange carriers, competitive access providers (CAPS)/ competitive local exchange carriers (CLECs), local resellers and other local exchange carriers, interexchange carriers, operator service providers, prepaid calling card providers, toll resellers, and other toll carriers.

10. We have included small incumbent local exchange carriers (LECs)[48] in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.''[49] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope.[50] We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

11. *Total Number of Telephone Companies Affected.* The Census Bureau reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.[51] This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.''[52] It seems reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small

[35] 13 CFR 121.201, North American Industry Classification System (NAICS) codes 51321 and 51322.

[36] *1992 Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, NAICS codes 51321 and 51322 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

[37] 47 CFR 76.901(e). The Commission developed this definition based on its determination that a small cable system operator is one with annual revenues of $100 million or less. *Implementation of Sections of the 1992 Cable Act: Rate Regulation, Sixth Report and Order and Eleventh Order on Reconsideration*, 10 FCC Rcd 7393 (1995), 60 FR 10534 (Feb. 27, 1995).

[38] Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

[39] 47 U.S.C. 543(m)(2).

[40] *Annual Assessment of the Status on Competition in the Market for the Delivery of Video Programming*, CS Docket No. 00–132, Seventh Annual Report, FCC 01–1 (released January 8, 2001), Table C–1.

[41] *Id.* 47 CFR 76.1403(b).

[42] *FCC Announces New Subscriber Count for the Definition of Small Cable Operator*, Public Notice, DA–01–0158 (released January 24, 2001).

[43] We do receive such information on a case-by-case basis only if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.1403(b) of the Commission's rules. *See* 47 CFR 76.1403(d).

[44] Direct Broadcast Services (DBS) are discussed with the international services, *infra*.

[45] Multipoint Distribution Services (MDS) are discussed with the mass media services, *infra*.

[46] FCC, Common Carrier Bureau, Industry Analysis Division, *Carrier Locator: Interstate Service Providers*, Table 1 (October 2000) (Carrier Locator).

[47] FCC, *Carrier Locator* at Table 1.

[48] See 47 U.S.C 251(h) (defining ''incumbent local exchange carrier'').

[49] 5 U.S.C. 601(3).

[50] Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of ''small business concern,'' which the RFA incorporates into its own definition of ''small business.'' See 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret ''small business concern'' to include the concept of dominance on a national basis. 13 CFR 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. See, e.g., Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket, 96–98, First Report and Order, 11 FCC Rcd 15499, 16144–45 (1996), 61 FR 45476 (Aug. 29, 1996).

[51] U.S. Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1–123 (1995) (*1992 Census*).

[52] *See generally* 15 U.S.C. 632(a)(1).

incumbent LECs that may be affected by these revised rules.

12. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992.[53] According to the SBA's definition, a small business telephone company other than a radiotelephone (wireless) company is one employing no more than 1,500 persons.[54] All but 26 of the 2,321 non-radiotelephone (wireless) companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Even if all 26 of the remaining companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone (wireless) companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Therefore, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone (wireless) companies are small entities or small incumbent LECs that may be affected by these revised rules.

13. *Local Exchange Carriers (LECS), Competitive Access Providers (CAPs), Interexchange Carriers (IXCs), Operator Service Providers (OSPs), Payphone Providers, and Resellers.* Neither the Commission nor the SBA has developed a definition for small LECs, competitive access providers (CAPs), interexchange carriers (IXCs), operator service providers (OSPs), payphone providers, or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[55] The most reliable source of information that we know regarding the number of these carriers nationwide appears to be the data that we collect annually in connection with the TRS.[56] According to our most recent data, there are 1,395 incumbent and other LECs, 349 CAPs and competitive local exchange carriers (CLECs), 204 IXCs, 21 OSPs, 758 payphone providers, 21 prepaid calling card providers, 17 other toll carriers, and 541 local and toll resellers.[57] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under the SBA's definition. Therefore, we estimate that there are fewer than 1,395 small entity incumbent and other LECs, 349 CAPs/CLECs, 204 IXCs, 21 OSPs, 758 payphone providers, and 541 local and toll resellers that may be affected by these revised rules.

International Services

14. The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC).[58] This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts.[59] According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than $10.0 million.[60] The Census report does not provide more precise data.

15. *International Broadcast Stations.* Commission records show that there are 17 international high frequency broadcast station authorizations. We do not request nor collect annual revenue information, and are unable to estimate the number of international high frequency broadcast stations that would constitute a small business under the SBA definition. However, the Commission estimates that only five international high frequency broadcast stations are subject to regulatory fee payments.

16. *International Public Fixed Radio (Public and Control Stations).* There is one licensee in this service subject to payment of regulatory fees, and the licensee does not constitute a small business under the SBA definition.

17. *Fixed Satellite Transmit/Receive Earth Stations.* There are approximately 2,784 earth station authorizations, a portion of which are Fixed Satellite Transmit/Receive Earth Stations. We do not request nor collect annual revenue information, and are unable to estimate the number of the earth stations that would constitute a small business under the SBA definition.

18. *Fixed Satellite Small Transmit/Receive Earth Stations.* There are approximately 2,784 earth station authorizations, a portion of which are Fixed Satellite Small Transmit/Receive Earth Stations. We do not request nor collect annual revenue information, and are unable to estimate the number of fixed small satellite transmit/receive earth stations that would constitute a small business under the SBA definition.

19. *Fixed Satellite Very Small Aperture Terminal (VSAT) Systems.* These stations operate on a primary basis, and frequency coordination with terrestrial microwave systems is not required. Thus, a single ''blanket'' application may be filed for a specified number of small antennas and one or more hub stations. There are 492 current VSAT System authorizations. We do not request nor collect annual revenue information, and are unable to estimate the number of VSAT systems that would constitute a small business under the SBA definition.

20. *Mobile Satellite Earth Stations.* There are 15 licensees. We do not request nor collect annual revenue information, and are unable to estimate the number of mobile satellite earth stations that would constitute a small business under the SBA definition.

21. *Radio Determination Satellite Earth Stations.* There are four licensees. We do not request nor collect annual revenue information, and are unable to estimate the number of radio determination satellite earth stations that would constitute a small business under the SBA definition.

22. *Space Stations (Geostationary).* There are presently 66 Geostationary Space Station authorizations. We do not request nor collect annual revenue information, and are unable to estimate the number of geostationary space stations that would constitute a small business under the SBA definition.

23. *Space Stations (Non-Geostationary).* There are presently six Non-Geostationary Space Station authorizations, of which only three systems are operational. We do not request nor collect annual revenue information, and are unable to estimate the number of non-geostationary space

[53] *1992 Census, supra*, at Firm Size 1–123.

[54] 13 CFR 121.201, NAICS codes 51331, 51333, and 51334.

[55] 13 CFR 121.201, NAICS codes 51331, 51333, and 51334.

[56] See *Carrier Locator* at Table 1.

[57] *Carrier Locator* at Table 1. The total for resellers includes both toll resellers and local resellers.

[58] An exception is the Direct Broadcast Satellite (DBS) Service, *infra*.

[59] 13 CFR 121.201, NAICS codes 48531, 513322, 51334, and 51339.

[60] *1992 Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, NAICS codes 48531, 513322, 51334, and 513391 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

stations that would constitute a small business under the SBA definition.

24. *Direct Broadcast Satellites.* Because DBS provides subscription services, DBS falls within the SBA-recognized definition of ''Cable and Other Pay Television Services.'' [61] This definition provides that a small entity is one with $11.0 million or less in annual receipts.[62] Currently, there are nine DBS authorizations, though there are only two DBS companies in operation at this time. We do not request nor collect annual revenue information for DBS services, and are unable to determine the number of DBS operators that would constitute a small business under the SBA definition.

Mass Media Services

25. *Commercial Radio and Television Services.* The proposed rules and policies will apply to television broadcasting licensees and radio broadcasting licensees.[63] The SBA defines a television broadcasting station that has $10.5 million or less in annual receipts as a small business.[64] Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services.[65] Included in this industry are commercial, religious, educational, and other television stations.[66] Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.[67] Separate establishments primarily engaged in producing taped television program materials are classified under another NAICS number.[68] There were 1,509 television stations operating in the nation in 1992.[69] That number has remained fairly constant as indicated by the approximately 1,663 operating television broadcasting stations in the nation as of September 30, 2000.[70] For 1992,[71] the number of television stations that produced less than $10.0 million in revenue was 1,155 establishments.[72] Only commercial stations are subject to regulatory fees.

26. Additionally, the SBA defines a radio broadcasting station that has $5 million or less in annual receipts as a small business.[73] A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.[74] Included in this industry are commercial, religious, educational, and other radio stations.[75] Radio broadcasting stations, which primarily are engaged in radio broadcasting and which produce radio program materials, are similarly included.[76] However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another NAICS number.[77] The 1992 Census indicates that 96 percent (5,861 of 6,127) of radio station establishments produced less than $5 million in revenue in 1992.[78] Official Commission records indicate that a total of 11,334 individual radio stations were operating in 1992.[79] As of September 30, 2000, Commission records indicate that a total of 12,717 radio stations were operating, of which 8,032 were FM stations.[80] Only commercial stations are subject to regulatory fees.

27. The rules may affect an estimated total of 1,663 television stations, approximately 1,281 of which are considered small businesses.[81] The revised rules will also affect an estimated total of 12,717 radio stations, approximately 12,209 of which are small businesses.[82] These estimates may overstate the number of small entities because the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies. There are also 2,366 low power television stations (LPTV).[83] Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the SBA definition.

28. *Auxiliary, Special Broadcast and Other Program Distribution Services.* This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. The applicable definitions of small entities are those, noted previously, under the SBA rules applicable to radio broadcasting stations and television broadcasting stations.[84]

29. The Commission estimates that there are approximately 2,700 translators and boosters. The Commission does not collect financial information on any broadcast facility, and the Department of Commerce does

[61] 13 CFR 121.201, NAICS codes 51321 and 51322.

[62] 13 CFR 121.201, NAICS codes 51321 and 51322.

[63] While we tentatively believe that the SBA's definition of ''small business'' greatly overstates the number of radio and television broadcast stations that are small businesses and is not suitable for purposes of determining the impact of the proposals on small television and radio stations, for purposes of this *NPRM* we utilize the SBA's definition in determining the number of small businesses to which the proposed rules would apply. We reserve the right to adopt, in the future, a more suitable definition of ''small business'' as applied to radio and television broadcast stations or other entities subject to the proposed rules in this *NPRM*, and to consider further the issue of the number of small entities that are radio and television broadcasters or other small media entities. *See Report and Order in MM Docket No. 93–48 (Children's Television Programming*), 11 FCC Rcd 10660, 10737–38 (1996), 61 FR 43981 (Aug. 27, 1996), *citing* 5 U.S.C. 601(3).

[64] 13 CFR 121.201, NAICS code 51312.

[65] Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size, Series UC92–S–1*, Appendix A–9 (1995) (*1992 Census, Series UC92–S–1*).

[66] *Id. see* Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987), at 283, which describes ''Television Broadcasting Stations'' (SIC code 4833, now NAICS code 51312) as:

Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials.

[67] *1992 Census, Series UC92–S–1*, at Appendix A–9.

[68] *Id.*, NAICS code 51211 (Motion Picture and Video Tape Production); NAICS 51229 (Theatrical Producers and Miscellaneous Theatrical Services) (producers of live radio and television programs).

[69] FCC News Release No. 31327 (January 13, 1993); *1992 Census, Series UC92–S–1*, at Appendix A–9.

[70] FCC News Release, ''Broadcast Station Totals as of September 30, 2000.''

[71] A census to determine the estimated number of Communications establishments is performed every five years, in years ending with a ''2'' or ''7.'' See *1992 Census, Series UC92–S–1*, at III.

[72] The amount of $10 million was used to estimate the number of small business establishments because the relevant Census categories stopped at $9,999,999 and began at $10,000,000. No category for $10.5 million existed. Thus, the number is as accurate as it is possible to calculate with the available information.

[73] 13 CFR 121.201, NAICS codes 513111 and 513112.

[74] *1992 Census, Series UC92–S–1*, at Appendix A–9.

[75] *Id.*

[76] *Id.*

[77] *Id.*

[78] The Census Bureau counts radio stations located at the same facility as one establishment. Therefore, each co-located AM/FM combination counts as one establishment.

[79] FCC News Release, No. 31327 (Jan. 13, 1993).

[80] FCC News Release, ''Broadcast Station Totals as of September 30, 2000.''

[81] We use an estimated figure of 77 percent (from 1992) of TV stations operating at less than $10 million and apply it to the 2000 total of 1,663 TV stations to arrive at 1,281 stations categorized as small businesses.

[82] We use the 96% figure of radio station establishments with less than $5 million revenue from data presented in the year 2000 estimate (FCC News Release, September 30, 2000) and apply it to the 12,717 individual station count to arrive at 12,209 individual stations as small businesses.

[83] FCC News Release, ''Broadcast Station Totals as of September 30, 2000.''

[84] 13 CFR 121.201, NAICS codes 513111 and 513112.

not collect financial information on these auxiliary broadcast facilities. We believe that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most commercial translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (either $5 million for a radio station or $10.5 million for a TV station). Furthermore, they do not meet the Small Business Act's definition of a ''small business concern'' because they are not independently owned and operated.[85]

30. *Multipoint Distribution Service (MDS).* This service has historically provided primarily point-to-multipoint, one-way video services to subscribers.[86] The Commission recently amended its rules to allow MDS licensees to provide a wide range of high-speed, two-way services to a variety of users.[87] In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues for the three preceding years not in excess of $40 million.[88] The Commission established this small business definition in the context of this particular service and with the approval of the SBA.[89] The MDS auction resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs).[90] Of the 67 auction winners, 61 met the definition of a small business. At this time, we estimate that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that are considered small entities.[91] After adding the number of small business auction licensees to the number of incumbent licensees not already counted, we find that there are currently approximately 440 MDS licensees that are defined as small businesses under either the SBA or the Commission's rules. Some of those 440 small business licensees may be affected by the proposals in this Order.

Wireless and Commercial Mobile Services

31. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities specific to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone (wireless) company employing no more than 1,500 persons.[92] According to the Census Bureau, only twelve radiotelephone (wireless) firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.[93] Even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent Telecommunications Reporting Worksheets data, 806 wireless telephony providers reported that they were engaged in the provision of either cellular service, Personal Communications Service (PCS) services, and SMR telephony carriers, which are placed together in the data.[94] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. We estimate that there are fewer than 806 small wireless service providers that may be affected by these revised rules.

32. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone (wireless) Communications companies. This definition provides that a small entity is a radiotelephone (wireless) company employing no more than 1,500 persons.[95] According to the Census Bureau, only 12 radiotelephone (wireless) firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.[96] If this general ratio continues in 2001 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

33. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz Third Report and Order, 62 FR 16004, April 3, 1997, we adopted criteria for defining small and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.[97] We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years.[98] The SBA has approved these definitions.[99] Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22,

[85] 15 U.S.C. 632.

[86] For purposes of this item, MDS includes both the single channel Multipoint Distribution Service (MDS) includes Local Multipoint Distribution Service (LMDS), and the Multichannel Multipoint Distribution Service (MMDS).

[87] Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions, 13 FCC Rcd 19112 (1998), recon., 14 FCC Rcd 12764 (1999), further recon., 15 FCC Rcd 14566 (2000).

[88] 47 CFR 21.961 and 1.2110.

[89] *Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding,* 10 FCC Rcd 9589, 9670 (1995), 60 FR 36524 (July 17, 1995).

[90] Basic Trading Areas (BTAs) were designed by Rand McNally and are the geographic areas by which MDS was auctioned and authorized. See id. At 9608.

[91] 47 U.S.C. 309(j). (Hundreds of stations were licensed to incumbent MDS licensees prior to implementation of Section 309(j) of the Communications Act of 1934, 47 U.S.C. Section 309(j). For these pre-auction licenses, the applicable standard is SBA's small business size standard for ''other telecommunications'' (annual receipts of $11 million or less). See 13 CFR 121.201.

[92] 13 CFR 121.201, NAICS code 513322.

[93] *1992 Census, Series UC92–S–1,* at Table 5, NAICS code 513322.

[94] *Trends in Telephone Service,* Table 16.3 (December 2000).

[95] 13 CFR 121.201, NAICS code 513322.

[96] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms; 1992, NAICS codes 513321, 513322, and 51333.

[97] 220 MHz Third Report and Order, 12 FCC Rcd 10943, 11068–70, at paragraphs 291–295 (1997).

[98] 220 MHz Third Report and Order, 12 FCC Rcd at 11068–69, paragraph 291.

[99] See Letter to D. Phython, Chief, Wireless Telecommunications Bureau (FCC) from A. Alvarez, Administrator, SBA (January 6, 1998).

1998.[100] In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold.[101] Thirty-nine small businesses won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.[102]

34. *700 MHz Guard Band Licenses.* In the 700 MHz Guard Band Order, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. [103] We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000.[104] Of the 104 licenses auctioned, 96 licenses were sold to 9 bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.[105]

35. *Private and Common Carrier Paging.* In the Paging Third Report and Order, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.[106] We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years.[107] The SBA has approved these definitions.[108] An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000.[109] Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to the most recent Telecommunications Industry Revenue data, 172 carriers reported that they were engaged in the provision of either paging or ''other mobile'' services, which are placed together in the data.[110] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and therefore are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 172 small paging carriers that may be affected by these revised rules. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

36. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequencies designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years.[111] For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.[112] These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA.[113] No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F.[114] On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. An additional classification for ''very small business'' was added for C Block and is defined as ''an entity that together with its affiliates and persons or entities that hold interest in such entity and their affiliates, has average annual gross revenues that are not more than forty million dollars for the proceding three years.[115] The SBA approved this definition.'' [116] Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this

[100] See generally Public Notice, ''220 MHz Service Auction Closes,'' Public Notice, 14 FCC Rcd 605 (1998).

[101] Public Notice, ''FCC Announces It is Prepared to Grant 654 Phase II 220 MHz Licenses After Final Payment is Made,'' Public Notice, 14 FCC Rcd 1085 (1999).

[102] ''Phase II 220 MHz Service Spectrum Auction Closes'', Public Notice, 14 FCC Rcd 11218 (1999).

[103] See Service Rules for the 746–764 MHz Bands, and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99–168, Second Report and Order, 65 FR 17599 (April 4, 2000).

[104] See generally Public Notice, ''220 MHz Service Auction Closes,'' Report No. WT 98–36 (Wireless Telecommunications Bureau, October 23, 1998).

[105] ''700 MHz Guard Bands Auction Closes,'' Public Notice, DA 01–478 (rel. February 22, 2001).

[106] 220 MHz Third Report and Order, 62 FR 16004 (April 3, 1997), at paragraphs 291–295.

[107] 700 MHz Guard Band Auction Closes,'' Public Notice, 15 FCC Rcd 18026 (2000).

[108] ''Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems,'' Memorandum Opinion and Order on Reconsideration and Third Report and Order, 14 FCC Rcd 10030, at paragraph 98–107 (1999).

[109] ''Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems,'' Memorandum Opinion and Order on Reconsideration and Third Report and Order, 14 FCC Rcd 10030, at paragraph 98 (1999).

[110] See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division from A. Alvarez, Administrator, SBA (December 2, 1998).

[111] See generally ''929 and 931 MHz Paging Auction Closes,'' Public Notice, 15 FCC Rcd 4858 (2000).

[112] See Amendment of Parts 20 and 24 of the Commission's Rules '' Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Report and Order, FCC 96–278, WT Docket No. 96–59 Sections 60 (released June 24, 1996), 61 FR 33859 (July 1, 1996).

[113] See, e.g., Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93–253, Fifth Report and Order, 9 FCC Rcd 5532, 5581–84 (1994).

[114] FCC News, Broadband PCS, D, E and F Block Auction Closes, No. 71744 (released January 14, 1997).

[115] See Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, Fourth Report and Order, 13 FCC Rcd 15743 at 15767–68, paragraphs 45–46 (1998).

[116] See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division from A. Alvarez, Administrator, SBA (December 2, 1998).

auction, 29 qualified as small or very small businesses.

37. *Narrowband PCS.* To date, two auctions of narrowband PCs licenses have been conducted. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. For purposes of the two auctions that have already been held, small businesses were defined as entities with average gross revenues for the prior three calendar years of $40 million or less. To ensure meaningful participation of small business entities in the auctions, the Commission adopted a two-tiered definition of small businesses in the Narrowband PCS Second Report and Order.[117] A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. These definitions have been approved by the SBA.[118] In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas (MTAs) and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined under the Commission's Rules. The Commission assumes, for purposes of this FRFA, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

38. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.[119] A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).[120] We will use the SBA's definition applicable to radiotelephone (wireless) companies, *i.e.,* an entity employing no more than 1,500 persons.[121] There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

39. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.[122] We will use the SBA's definition applicable to radiotelephone (wireless) companies, *i.e.,* an entity employing no more than 1,500 persons.[123] There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

40. *Specialized Mobile Radio (SMR).* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small business'' for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band, as a firm that has had average annual gross revenues of $15 million or less in the three preceding calendar years.[124] The SBA has approved this small business size standard for the 800 MHz and 900 MHz auctions.[125] Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small business under the $15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997.[126] Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard.[127] An auction of 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000 and was completed on September 1, 2000. Of the 1,050 licenses offered in that auction, 1,030 licenses were sold. Eleven winning bidders for licenses for the General Category channels in the 800 MHz SMR band qualified as small business under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed small business status. Thus, 40 winning bidders for geographic licenses in the 800 MHz SMR band qualified as small businesses. In addition, there are numerous incumbent site-by-site SMR licenses on the 800 and 900 MHz band.

41. These revised fees in the Report and Order apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this FRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

42. *Private Land Mobile Radio (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area.

43. The Commission is unable at this time to estimate the number of small businesses which could be impacted by the rules. The Commission's 1994 Annual Report on PLMR[128] indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the revised rules in this context could

[117] In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS, Docket No. ET 92–100, Docket No. PP 93–253, Second Report and Order and Second Further Notice of Proposed Rulemaking, 65 FR 35875 (June 6, 2000).

[118] See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division from A. Alvarez, Administrator, SBA (December 2, 1998).

[119] The service is defined in § 22.99 of the Commission's Rules, 47 CFR 22.99.

[120] BETRS is defined in §§ 22.757 and 22.759 of the Commission's Rules, 47 CFR 22.757 and 22.759.

[121] 13 CFR 121.201, NAICS codes 513321, 513322, and 51333.

[122] The service is defined in § 22.99 of the Commission's Rules, 47 CFR 22.99.

[123] 13 CFR 121.201, NAICS codes 513321, 513322, and 51333.

[124] 47 CFR 90.814(b)(1).

[125] See Letter to Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau (FCC) from A. Alvarez, Administrator, SBA (August 10, 1999).

[126] See Letter to Daniel B. Phython, Chief, Wireless Telecommunications Bureau (FCC) from A. Alvarez, Administrator, SBA (October 27, 1997).

[127] *Id.*

[128] Federal Communications Commission, *60th Annual Report, Fiscal Year 1994*, at paragraph 116.

potentially impact every small business in the United States.

44. *Amateur Radio Service.* We estimate that 8,000 applicants will apply for vanity call signs in FY 2001. These licensees are presumed to be individuals, and therefore not small entities. All other amateur licensees are exempt from payment of regulatory fees.

45. *Aviation and Marine Radio Service.* Small businesses in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. The applicable definition of small entity is the definition under the SBA rules for radiotelephone (wireless) communications.[129]

46. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of our evaluations and conclusions in this FRFA, we estimate that there may be at least 712,000 potential licensees which are individuals or are small entities, as that term is defined by the SBA. We estimate that only 16,800 will be subject to FY 2001 regulatory fees.

47. *Fixed Microwave Services.* Microwave services include common carrier,[130] private-operational fixed,[131] and broadcast auxiliary radio services.[132] At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this FRFA, we will use the SBA's definition applicable to radiotelephone (wireless) companies—*i.e.,* an entity with no more than 1,500 persons.[133] We estimate that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone (wireless) companies.

48. *Public Safety Radio Services.* Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.[134] There are a total of approximately 127,540 licensees within these services. Governmental entities [135] as well as private businesses comprise the licensees for these services. As indicated *supra* in paragraph four of this FRFA, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.[136] All licensees in this category are exempt from the payment of regulatory fees.

49. *Personal Radio Services.* Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. The services include the citizen's band (CB) radio service, general mobile radio service (GMRS), radio control radio service, and family radio service (FRS).[137] Since the CB, GMRS, and FRS licensees are individuals, no small business definition applies for these services. We are unable at this time to estimate the number of other licensees that would qualify as small under the SBA's definition; however, only GMRS licensees are subject to regulatory fees.

50. *Offshore Radiotelephone Service.* This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal areas of states bordering the Gulf of Mexico.[138] There are presently approximately 55 licensees in this service. We are unable to estimate at this time the number of licensees that would qualify as small under the SBA's definition for radiotelephone (wireless) communications.

51. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions.[139] The FCC auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees affected includes these eight entities.

52. *39 GHz Service.* The Commission defined ''small entity'' for 39 GHz licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years.[140] An additional classification for ''very

[129] 13 CFR 121.201, NAICS codes 513321, 513322, and 51333.

[130] 47 CFR 101 *et seq.* (formerly, part 21 of the Commission's Rules).

[131] Persons eligible under parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. *See* 47 CFR parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

[132] Auxiliary Microwave Service is governed by part 74 of Title 47 of the Commission's Rules. *See* 47 CFR 74 *et seq.* Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

[133] 13 CFR 121.201, NAICS codes 513321, 513322, 51333.

[134] With the exception of the special emergency service, these services are governed by Subpart B of part 90 of the Commission's Rules, 47 CFR 90.15 through 90.27. The police service includes 26,608 licensees that serve state, county, and municipal enforcement through telephony (voice), telegraphy (code) and teletype and facsimile (printed material). The fire radio service includes 22,677 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. The local government service that is presently comprised of 40,512 licensees that are state, county, or municipal entities that use the radio for official purposes not covered by other public safety services. There are 7,325 licensees within the forestry service which is comprised of licensees from state departments of conservation and private forest organizations who set up communications networks among fire lookout towers and ground crews. The 9,480 state and local governments are licensed to highway maintenance service provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. The 1,460 licensees in the Emergency Medical Radio Service (EMRS) use the 39 channels allocated to this service for emergency medical service communications related to the delivery of emergency medical treatment. 47 CFR 90.15 through 90.27. The 19,478 licensees in the special emergency service include medical services, rescue organizations, veterinarians, handicapped persons, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities, and emergency repair of public communications facilities. 47 CFR 90.33 through 90.55.

[135] 47 CFR 1.1162.

[136] 5 U.S.C. 601(5).

[137] Licensees in the Citizens Bank (CB) Radio Services, General Mobile Radio Service (GMRS), Radio Control (R/C) Radio Service and Familly Radio Service (FRS) are governed by Subpart D, Subpart A, Subpart C, and Subpart B, respectively, of part 95 of the Commission Rules. 47 CFR 95.401 through 95.428; 95.1 through 95.181; 95.201 through 95.225; 47 CFR 95.191 through 95.194

[138] This service is governed by subpart 1 of part 22 of the Commission's Rules. *See* 47 CFR 22.1001 through 22.1037.

[139] *See* Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division from A. Alvarez, Administrator, SBA (December 2. 1998).

[140] *See* In the Matter of Amendment of the Commission's Rules Regarding the 37.0–38.6 GHz and 38.6–40.0 GHz Band, Report and Order, 12 FCC Rcd 18600 (1997).

small business'' was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.[141] These regulations defining ''small entity'' in the context of 39 GHz auctions have been approved by the SBA. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses.

53. *Local Multipoint Distribution Service.* The auction of the 1,030 Local Multipoint Distribution Service (LMDS) licenses began on February 18, 1998 and closed on March 25, 1998. The Commission defined ''small entity'' for LMDS licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years.[142] An additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.[143] These regulations defining ''small entity'' in the context of LMDS auctions have been approved by the SBA.[144] There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 winning bidders. Based on this information, we conclude that the number of small LMDS licenses will include the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers as defined by the SBA and the Commission's auction rules.

54. *218–219 MHz Service.* The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 595 Metropolitan Statistical Area (MSA) licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, we defined a small business as an entity that, together with its affiliates, has no more than a $6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years.[145] In the 218–219 MHz Report and Order and Memorandum Opinion and Order, we defined a small business as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $15 million for the preceding three years.[146] A very small business is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed $3 million for the preceding three years.[147] We cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under our rules in future auctions of 218–219 MHz spectrum. Given the success of small businesses in the previous auction, and the above discussion regarding the prevalence of small businesses in the subscription television services and message communications industries, we assume for purposes of this FRFA that in future auctions, all of the licenses may be awarded to small businesses, which would be affected by these revised rules.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

55. With certain exceptions, the Commission's Schedule of Regulatory Fees applies to all Commission licensees and regulatees. Most licensees will be required to count the number of licenses or call signs authorized, complete and submit an FCC Form 159 (''FCC Remittance Advice''), and pay a regulatory fee based on the number of licenses or call signs.[148] Interstate telephone service providers must compute their annual regulatory fee based on their interstate and international end-user revenue using information they already supply to the Commission in compliance with the Form 499–A, Telecommunications Reporting Worksheet, and they must complete and submit the FCC Form 159. Compliance with the fee schedule will require some licensees to tabulate the number of units (*e.g.*, cellular telephones, pagers, cable TV subscribers) they have in service, and complete and submit an FCC Form 159. Licensees ordinarily will keep a list of the number of units they have in service as part of their normal business practices. No additional outside professional skills are required to complete the FCC Form 159, and it can be completed by the employees responsible for an entity's business records.

56. Each licensee must submit the FCC Form 159 to the Commission's lockbox bank after computing the number of units subject to the fee. Licensees may also file electronically to minimize the burden of submitting multiple copies of the FCC Form 159. Applicants who pay small fees in advance and provide fee information as part of their application must use FCC Form 159.

57. Licensees and regulatees are advised that failure to submit the required regulatory fee in a timely manner will subject the licensee or regulatee to a late payment fee of 25 percent in addition to the required fee.[149] Until payment is received, no new or pending applications will be processed, and existing authorizations may be subject to rescission.[150] Further, in accordance with the Debt Collection Improvement Act of 1996, federal agencies may bar a person or entity from obtaining a federal loan or loan insurance guarantee if that person or

[141] *Id.*

[142] See Local Multipoint Distribution Service, Second Report and Order, 62 FR 23148, April 29, 1997.

[143] *Id.*

[144] *See* Letter to Daniel Phythyon, Chief, Wireless Telecommunications Bureau (FCC) from A. Alvarez, Administrator, SBA (January 6, 1998).

[145] Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP WT Docket No. 93–253, Fourth Report and Order, 59 FR 24947 (May 13, 1994).

[146] In the Matter of Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218–219 MHz Service, WT Docket No. 98–169, Report and Order and Memorandum Opinion and Order, 64 FR 59656 (November 3, 1999).

[147] Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218–219 MHz Service, Report and Order and Memorandum Opinion and Order, 64 FR 59656 (1999).

[148] The following categories are exempt from the Commission's Schedule of Regulatory Fees: Amateur radio licensees (except applicants for vanity call signs) and operators in other non-licensed services (e.g., Personal Radio, part 15, ship and aircraft). Governments and non-profit (exempt under section 501(c) of the Internal Revenue Code) entities are exempt from payment of regulatory fees and need not submit payment. Non-commercial educational broadcast licensees are exempt from regulatory fees as are licensees of auxiliary broadcast services such as low power auxiliary stations, television auxiliary service stations, remote pickup stations and aural broadcast auxiliary stations where such licenses are used in conjunction with commonly owned non-commercial educational stations. Emergency Alert System licenses for auxiliary service facilities are also exempt as are instructional television fixed service licensees. Regulatory fees are automatically waived for the licensee of any translator station that: (1) is not licensed to, in whole or in part, and does not have common ownership with, the licensee of a commercial broadcast station; (2) does not derive income from advertising; and (3) is dependent on subscriptions or contributions from members of the community served for support. Receive only earth station permittees are exempt from payment of regulatory fees. A regulatee will be relieved of its fee payment requirement if its total fee due, including all categories of fees for which payment is due by the entity, amounts to less than $10.

[149] 47 U.S.C. 1.1164(a).

[150] 47 U.S.C. 1.1164(c).

entity fails to pay a delinquent debt owed to any federal agency.[151] Nonpayment of regulatory fees is a debt owed the United States pursuant to 31 U.S.C. 3711 *et seq.*, and the *Debt Collection Improvement Act of 1996,* Public Law 194–134. Appropriate enforcement measures, *e.g.,* interest as well as administrative and judicial remedies, may be exercised by the Commission. Debts owed to the Commission may result in a person or entity being denied a federal loan or loan guarantee pending before another federal agency until such obligations are paid.[152]

58. The Commission's rules currently provide for relief in exceptional circumstances. Persons or entities that believe they have been placed in the wrong regulatory fee category or are experiencing extraordinary and compelling financial hardship, upon a showing that such circumstances override the public interest in reimbursing the Commission for its regulatory costs, may request a waiver, reduction or deferment of payment of the regulatory fee.[153] However, timely submission of the required regulatory fee must accompany requests for waivers or reductions. This will avoid any late payment penalty if the request is denied. The fee will be refunded if the request is granted. In exceptional and compelling instances (where payment of the regulatory fee along with the waiver or reduction request could result in reduction of service to a community or other financial hardship to the licensee), the Commission will accept a petition to defer payment along with a waiver or reduction request.

[151] Public Law 104–134, 110 Stat. 1321 (1996).

[152] 31 U.S.C. 7701(c)(2)(B).

[153] 47 U.S.C. 1.1166.

V. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

59. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. As described in Section IV of this FRFA, *supra,* we have created procedures in which all fee-filing licensees and regulatees use a single form, FCC Form 159, and have described in plain language the general filing requirements. We have also created Attachment F, *infra,* which gives ''Detailed Guidance on Who Must Pay Regulatory Fees.'' Because the collection of fees is statutory, our efforts at proposing alternatives are constrained and, throughout these annual fee proceedings, have been largely directed toward simplifying the instructions and necessary procedures for all filers. We have sought comment on other alternatives that might simplify our fee procedures or otherwise benefit small entities, while remaining consistent with our statutory responsibilities in this proceeding.

60. *The Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 2000,* Public Law 106–553 requires the Commission to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress, pursuant to Section 9(a) of the Communications Act, as amended, has required the Commission to collect for Fiscal Year (FY) 2001.[154] As noted, we have also previously sought comment on the proposed methodology for implementing these statutory requirements and any other potential impact of these proposals on small entities.

61. With the use of actual cost accounting data for computation of regulatory fees, we found that some fees which were very small in previous years would have increased dramatically and would have a disproportionate impact on smaller entities. The methodology we are adopting in this *Report and Order* minimizes this impact by limiting the amount of increase and shifting costs to other services which, for the most part, are larger entities.

62. Several categories of licensees and regulatees are exempt from payment of regulatory fees. *See, e.g.,* footnote 148, *supra,* and Attachment F of the *Report and Order, infra.*

Report to Small Business Administration: The Commission will send a copy of this *Report and Order*, including a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration. The Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

Report to Congress: The Commission will send a copy of this Final Regulatory Flexibility Analysis, along with this *Report and Order,* in a report to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

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[154] 47 U.S.C.159(a).

SOURCES OF PAYMENT UNIT ESTIMATES FOR FY 2001

In order to calculate individual service fees for FY 2001, we adjusted FY 2000 payment units for each service to more accurately reflect expected FY 2001 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. We tried to obtain verification for these estimates from multiple sources and, in all cases, we compared FY 2001 estimates with actual FY 2000 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated exactly. These include an unknown number of waivers and/or exemptions that may occur in FY 2001 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical or other reasons. Therefore, when we note, for example, that our estimated FY 2001 payment units are based on FY 2000 actual payment units, it does not necessarily mean that our FY 2001 projection is exactly the same number as FY 2000. It means that we have either rounded the FY 2001 number or adjusted it slightly to account for these variables.

FEE CATEGORY	SOURCES OF PAYMENT UNIT ESTIMATES
Land Mobile (All), Microwave, 218-219 MHz[155], Marine (Ship & Coast), Aviation (Aircraft & Ground), GMRS, Amateur Vanity Call Signs, Domestic Public Fixed	Based on Wireless Telecommunications Bureau (WTB) projections of new applications and renewals taking into consideration existing Commission licensee databases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Mobile Services	Based on Wireless Telecommunications Bureau estimates.
CMRS Messaging Services	Based on Wireless Telecommunications Bureau estimates.
AM/FM Radio Stations	Based on estimates from Data World, Inc.
UHF/VHF Television Stations	Based on Mass Media Bureau estimates and actual FY 2000 payment units.
AM/FM/TV Construction Permits	Based on actual FY 2000 payment units.
LPTV, Translators and Boosters	Based on actual FY 2000 payment units.
Auxiliaries	Based on Wireless Telecommunications Bureau estimates.
MDS/MMDS/LMDS	Based on Mass Media Bureau estimates.
Cable Television Relay Service (CARS)	Based on actual FY 2000 payment units.
Cable Television System Subscribers	Based on Cable Services Bureau and industry estimates of subscribership.
Interstate Telephone Service Providers	Based on actual FY 2000 interstate revenues associated with the Telecommunications Reporting Worksheet, adjusted to take into consideration FY 2001revenue growth in this industry as estimated by the Common Carrier Bureau.
Earth Stations	Based on International Bureau estimates.
Space Stations (GSOs & NGSOs)	Based on International Bureau licensee data bases.
International Bearer Circuits	Based on actual FY 2000 payment units.
International HF Broadcast Stations, International Public Fixed Radio Service	Based on actual FY 2000 payment units.

[155] The Wireless Telecommunications Bureau's staff advises that they anticipate receiving only 25 applications for 218-219 MHz (formerly IVDS) in FY 2001.

Attachment C

CALCULATION OF FY 2001 REVENUE REQUIREMENTS AND PRO-RATA FEES

Fee Category	FY 2001 Payment Units	Payment Years	FY 2000 Revenue Estimate	Pro-Rated FY 2001 Revenue Requirement**	Computed New FY 2001 Regulatory Fee	Rounded New FY 2001 Regulatory Fee	Expected FY 2001 Revenue
PLMRS (Exclusive Use)	5,500	10	239,408	257,962	5	5	275,000
PLMRS (Shared use)	58,000	10	1,934,808	2,084,756	4	5	2,900,000
Microwave	23,900	10	787,525	848,558	4	5	1,195,000
218-219 MHz (Formerly IVDS)	25	10	0	0	0	10	1,250
Marine (Ship)	5,500	10	427,444	460,571	8	10	550,000
GMRS	2,000	5	66,718	71,889	7	5	50,000
Aviation (Aircraft)	3,500	10	223,889	241,240	7	5	175,000
Marine (Coast)	1,300	10	50,886	54,830	4	5	65,000
Aviation (Ground)	1,700	5	59,367	63,968	8	10	85,000
Amateur Vanity Call Signs	10,000	10	112,000	120,680	1.21	1.20	120,000
AM Class A	76	1	135,000	145,463	1,914	1,925	146,300
AM Class B	1,620	1	1,674,750	1,804,543	1,114	1,115	1,806,300
AM Class C	998	1	576,290	620,952	622	620	618,760
AM Class D	2,086	1	1,880,940	2,026,713	972	975	2,033,850
FM Classes A, B1 & C3	2,080	1	3,857,200	4,156,133	1,998	2,000	4,160,000
FM Classes B, C, C1 & C2	3,039	1	4,790,625	5,161,898	1,699	1,700	5,166,300
AM Construction Permits	58	1	15,000	16,163	279	280	16,240
FM Construction Permits	300	1	257,455	277,408	925	925	277,500
Satellite TV	127	1	87,500	94,281	742	740	93,980
Satellite TV Construction Permit	4	1	1,780	1,918	479	480	1,920
VHF Markets 1-10	42	1	1,757,800	1,894,030	45,096	45,100	1,894,200
VHF Markets 11-25	59	1	1,796,850	1,936,106	32,815	32,825	1,936,675
VHF Markets 26-50	77	1	1,524,250	1,642,379	21,330	21,325	1,642,025
VHF Markets 51-100	115	1	1,466,250	1,579,884	13,738	13,750	1,581,250
VHF Remaining Markets	211	1	643,500	693,371	3,286	3,275	691,025
VHF Construction Permits	18	1	51,300	55,276	3,071	3,075	55,350
UHF Markets 1-10	75	1	1,055,250	1,137,032	15,160	15,150	1,136,250
UHF Markets 11-25	75	1	856,875	923,283	12,310	12,300	922,500
UHF Markets 26-50	110	1	721,650	777,578	7,069	7,075	778,250
UHF Markets 51-100	165	1	625,300	673,761	4,083	4,075	672,375
UHF Remaining Markets	175	1	187,450	201,977	1,154	1,150	201,250
UHF Construction Permits	70	1	260,400	280,581	4,008	4,000	280,000
Auxiliaries	27,000	1	261,701	281,983	10	10	270,000
International HF Broadcast	4	1	2,525	2,721	680	680	2,720
LPTV/Translators/Boosters	2,700	1	758,800	817,607	303	305	823,500
CARS	1,700	1	89,933	96,903	57	55	93,500
Cable Systems	67,700,000	1	31,027,233	33,431,844	0.49	0.49	33,431,844
Interstate Telephone Service Providers	70,686,000,000	1	86,670,419	93,387,376	0.00132	0.00132	93,387,376
CMRS Mobile Services (Cellular/Public Mobile)	101,000,000	1	25,433,429	27,404,520	0.27	0.27	27,404,520
CMRS Messaging Services	30.000,000	1	1,508,171	1,625,054	0.05	0.05	1,625,054
MDS/MMDS/LMDS	2,000	1	834,900	899,605	450	450	900,000
International Bearer Circuits	840,451	1	4,041,141	4,354,329	5	5	4,202,255
International Public Fixed	1	1	1,185	1,277	1,277	1,275	1,275
Earth Stations	2,784	1	468,825	505,159	181	180	501,120
Space Stations (Geostationary)	66	1	6,010,275	6,476,071	98,122	98,125	6,476,250
Space Stations (Non-geostationary)	6	1	525,750	566,496	94,416	94,425	566,550
****** Total Estimated Revenue to be Collected			185,759,747	200,156,127			201,214,514
****** Total Revenue Requirement				200,146,000			200,146,000
Difference				10,127			1,068,514

** 1.0775 factor applied

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ATTACHMENT D.—FY 2001 SCHEDULE OF REGULATORY FEES

Fee category	Annual regulatory fee (U.S. $'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	5
Microwave (per license) (47 CFR part 101)	5
218–219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95)	10
Marine (Ship) (per station) (47 CFR part 80)	10
Marine (Coast) (per license) (47 CFR part 80)	5
General Mobile Radio Service (per license) (47 CFR part 95)	5
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	5
PLMRS (Shared Use) (per license) (47 CFR part 90)	5
Aviation (Aircraft) (per station) (47 CFR part 87)	5
Aviation (Ground) (per license) (47 CFR part 87)	10
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	1.20
CMRS Mobile Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.27
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.05
Multipoint Distribution Services (Includes MMDS & LMDS) (per call sign) (47 CFR parts 21 and 101)	450
AM Radio Construction Permits	280
FM Radio Construction Permits	925
TV (47 CFR part 73) VHF Commercial	
Markets 1–10	45,100
Markets 11–25	32,825
Markets 26–50	21,325
Markets 51–100	13,750
Remaining Markets	3,275
Construction Permits	3,075
TV (47 CFR part 73) UHF Commercial	
Markets 1–10	15,150
Markets 11–25	12,300
Markets 26–50	7,075
Markets 51–100	4,075
Remaining Markets	1,150
Construction Permits	4,000
Satellite Television Stations (All Markets)	740
Construction Permits—Satellite Television Stations	480
Low Power TV, TV/FM Translators & Boosters (47 CFR part 74)	305
Broadcast Auxiliary (47 CFR part 74)	10
CARS (47 CFR part 78)	55
Cable Television Systems (per subscriber) (47 CFR part 76)	.49
Interstate Telephone Service Providers (per revenue dollar)	.00132
Earth Stations (47 CFR part 25)	180
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes Direct Broadcast Satellite Service (per operational station) (47 CFR part 100)	98,125
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	94,425
International Bearer Circuits (per active 64KB circuit)	5
International Public Fixed (per call sign) (47 CFR part 23)	1,275
International (HF) Broadcast (47 CFR part 73)	680

FY 2001 RADIO STATION REGULATORY FEES

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C1 & C2
≦20,000	450	350	250	300	350	450
20,001–50,000	850	675	350	475	675	850
50,001–125,000	1,375	900	475	700	900	1,375
125,001–400,000	2,050	1,450	725	875	1,450	2,050
400,001–1,000,000	2,850	2,300	1,300	1,550	2,300	2,850
>1,000,000	4,550	3,750	1,900	2,400	3,750	4,550

ATTACHMENT E.—COMPARISON BETWEEN FY 2000 & FY 2001 PROPOSED AND FINAL REGULATORY FEES

Fee category	Annual regulatory fee FY 2000	NPRM Proposed fee FY 2001	Annual regulatory fee FY 2001
PLMRS (per license) (Exclusive (47 CFR part 90)	13	5	5
Microwave (per license) (47 CFR part 101)	13	5	5
218–219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95)	13	10	10
Marine (Ship) (per station) (47 CFR part 80)	7	10	10

ATTACHMENT E.—COMPARISON BETWEEN FY 2000 & FY 2001 PROPOSED AND FINAL REGULATORY FEES—Continued

Fee category	Annual regulatory fee FY 2000	NPRM Proposed fee FY 2001	Annual regulatory fee FY 2001
Marine (Coast) (per license) (47 CFR part 80)	7	5	5
General Mobile Radio Service (per license) (47 CFR part 95)	7	5	5
Rural Radio (47 CFR part 22) (previously listed under Land Mobile)	7	5	5
PLMRS (Shared Use) (47 CFR part 90)	7	5	5
Aviation (Aircraft) (per station) (47 CFR part 87)	7	5	5
Aviation (Ground) (per license) (47 CFR part 87)	7	10	10
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	1.40	1.20	1.20
CMRS Mobile Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.31	.30	.27
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.04	.05	.05
Multipoint Distribution Services (includes MMDS and LMDS) (per call sign) (47 CFR part 21 and 101)	275	450	450
AM Construction Permits	250	280	280
FM Construction Permits	755	925	925
TV (47 CFR part 73) VHF Commercial			
Markets 1–10	39,950	45,100	45,100
Markets 11–25	33,275	32,825	32,825
Markets 26–50	22,750	21,325	21,325
Markets 51–100	12,750	13,750	13,750
Remaining Markets	3,300	3,275	3,275
Construction Permits	2,700	3,075	3,075
TV (47 CFR part 73) UHF Commercial			
Markets 1–10	15,075	15,150	15,150
Markets 11–25	11,425	12,300	12,300
Markets 26–50	7,075	7,075	7,075
Markets 51–100	4,225	4,075	4,075
Remaining Markets	1,150	1,150	1,150
Construction Permits	2,800	4,000	4,000
Satellite Television Stations (All Markets)	1,250	740	740
Construction Permits—Satellite Television Stations	445	480	480
Low Power TV, TV/FM Translators & Boosters (47 CFR part 74)	280	305	305
Broadcast Auxiliary (47 CFR part 74)	12	10	10
CARS (47 CFR part 78)	53	55	55
Earth Stations (47 CFR part 25)	175	180	180
Cable Television Systems (per subscriber) (47 CFR part 76)	.47	.49	.49
Interstate Telephone Service Providers (per revenue dollar)	.00117	.00132	.00132
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes Direct Broadcast Satellite Service (per operational station (47 CFR part 100)	94,650	98,125	98,125
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	175,250	94,425	94,425
International Bearer Circuits (per active 64KB circuit)	7	5	5
International Public Fixed (per call sign) (47 CFR part 23)	395	1,275	1,275
International (HF) Broadcast (47 CFR part 73)	505	680	680

FY 2000 RADIO STATION REGULATORY FEES

Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C1 & C2
≦20,000	400	300	200	250	300	400
20,001–50,000	800	625	300	425	625	800
50,001–125,000	1,325	850	425	650	850	1,325
125,001–400,000	1,950	1,350	625	775	1,350	1,950
400,001–1,000,000	2,725	2,200	1,200	1,450	2,200	2,725
>1,000,000	4,375	3,575	1,725	2,225	3,575	4,375

FY 2001 RADIO STATION REGULATORY FEES

Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C1 & C2
≦20,000	450	350	250	300	350	450
20,001–50,000	850	675	350	475	675	850
50,001–125,000	1,375	900	475	700	900	1,375
125,001–400,000	2,050	1,450	725	875	1,450	2,050
400,001–1,000,000	2,850	2,300	1,300	1,550	2,300	2,850
>1,000,000	4,550	3,750	1,900	2,400	3,750	4,550

Attachment F.—Detailed Guidance on Who Must Pay Regulatory Fees

1. The guidelines below provide an explanation of regulatory fee categories established by the Schedule of Regulatory Fees in section 9(g) of the Communications Act,[156] as modified in the present *Report and Order* (released July 2, 2001). Where regulatory fee categories need interpretation or clarification, we have relied on the legislative history of section 9, our own experience in establishing and regulating the Schedule of Regulatory Fees for Fiscal Years (FY) 1994 through 2000, and the services subject to the fee schedule. The categories and amounts set out in the schedule have been modified to reflect changes in the number of payment units, additions and changes in the services subject to the fee requirement and the benefits derived from the Commission's regulatory activities, and to simplify the structure of the schedule. The schedule may be similarly modified or adjusted in future years to reflect changes in the Commission's budget and in the services regulated by the Commission.[157]

2. *Exemptions.* Governments and nonprofit entities are exempt from paying regulatory fees and should not submit payment. A nonprofit entity is required to have on file with the Commission an IRS Determination Letter documenting that it is exempt from taxes under section 501 of the Internal Revenue Code or the certification of a governmental authority attesting to its nonprofit status. In instances where the IRS Determination Letter or the letter of certification from a governmental authority attesting to its nonprofit status is not sufficiently current, the nonprofit entity may be asked to submit more current documentation. The governmental exemption applies even where the government-owned or community-owned facility is in competition with a commercial operation. Other specific exemptions are discussed below in the descriptions of other particular service categories.

1. Private Wireless Radio Services

3. Two levels of statutory fees were established for the Private Wireless Radio Services—exclusive use services and shared use services. Thus, licensees who generally receive a higher quality communication channel due to exclusive or lightly shared frequency assignments will pay a higher fee than those who share marginal quality assignments. This dichotomy is consistent with the directive of section 9, that the regulatory fees reflect the benefits provided to the licensees.[158] In addition, because of the generally small amount of the fees assessed against Private Wireless Radio Service licensees, applicants for new licenses and reinstatements and for renewal of existing licenses are required to pay a regulatory fee covering the entire license term, with only a percentage of all licensees paying a regulatory fee in any one year. Applications for modification or assignment of existing authorizations do not require the payment of regulatory fees. The expiration date of those authorizations will reflect only the unexpired term of the underlying license rather than a new license term.

a. Exclusive Use Services

4. *Private Land Mobile Radio Services (PLMRS) (Exclusive Use):* Regulatees in this category include those authorized under part 90 of the Commission's Rules to provide limited access Wireless Radio service that allows high quality voice or digital communications between vehicles or to fixed stations to further the business activities of the licensee. These services, using the 220–222 MHz band and frequencies at 470 MHz and above, may be offered on a private carrier basis in the Specialized Mobile Radio Services (SMRS).[159] For FY 2001, PLMRS licensees will pay a $5 annual regulatory fee per license, payable for an entire ten-year license term at the time of application for a new, renewal, or reinstatement license.[160] The total regulatory fee due is $50 for the ten-year term.

5. *Microwave Services:* These services include private and commercial microwave systems and private and commercial carrier systems authorized under part 101 of the Commission's Rules to provide telecommunications services between fixed points on a high quality channel of communications. Microwave systems are often used to relay data and to control railroad, pipeline, and utility equipment. Commercial systems typically are used for video or data transmission or distribution. For FY 2001, Microwave licensees will pay a $5 annual regulatory fee per license, payable for an entire ten-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is $50 for the ten-year license term.

6. *218–219 MHz (Formerly Interactive Video Data Service (IVDS)):* The 218–219 MHz service is a two-way, point-to-multi-point radio service allocated high quality channels of communications and authorized under part 95 of the Commission's Rules. The 218–219 MHz service provides information, products, and services, and also the capability to obtain responses from subscribers in a specific service area. The 218–219 MHz service is offered on a private carrier basis. The Commission did not anticipate receiving any applications in the 218–219 MHz service during FY 2000. For FY 2001, we anticipate receiving 25 applications and propose that the annual regulatory fee for 218–219 MHz licensees be set at $10 per application. The total regulatory fee due would be $50 for the five-year license term.

b. Shared Use Services

7. *Marine (Ship) Service:* This service is a shipboard radio service authorized under part 80 of the Commission's Rules to provide telecommunications between watercraft or between watercraft and shore-based stations. Radio installations are required by domestic and international law for large passenger or cargo vessels. Radio equipment may be voluntarily installed on smaller vessels, such as recreational boats. The Telecommunications Act of 1996 gave the Commission the authority to license certain ship stations by rule rather than by individual license. The Commission exercises that authority. Private boat operators sailing entirely within domestic U.S. waters and who are not otherwise required by treaty or agreement to carry a radio, are no longer required to hold a marine license, and they will not be required to pay a regulatory fee. For FY 2001, parties required to be licensed and those choosing to be licensed for Marine (Ship) Stations will pay a $10 annual regulatory fee per station, payable for an entire ten-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is $100 for the ten-year license term.

8. *Marine (Coast) Service:* This service includes land-based stations in the maritime services, authorized under part 80 of the Commission's Rules, to provide communications services to ships and other watercraft in coastal and

[156] 47 U.S.C. 159(g).

[157] U.S.C. 159(b)(2), (3).

[158] 47 U.S.C. 159(b)(1)(A).

[159] This category only applies to licensees of shared-use private 220–222 MHz and 470 MHz and above in the Specialized Mobile Radio (SMR) service who have elected not to change to the Commercial Mobile Radio Service (CMRS). Those who have elected to change to the CMRS are referred to paragraph 14 of this Attachment.

[160] Although this fee category includes licenses with ten-year terms, the estimated volume of ten-year license applications in FY 2001 is less than one-tenth of one percent and, therefore, is statistically insignificant.

inland waterways. For FY 2001, licensees of Marine (Coast) Stations will pay a $5 annual regulatory fee per call sign, payable for the entire ten-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is $50 per call sign for the ten-year license term.

9. *Private Land Mobile Radio Services (PLMRS)(Shared Use):* These services include Land Mobile Radio Services operating under parts 90 and 95 of the Commission's Rules. Services in this category provide one-or two-way communications between vehicles, persons or fixed stations on a shared basis and include radiolocation services, industrial radio services, and land transportation radio services. For FY 2001, licensees of services in this category will pay a $5 annual regulatory fee per call sign, payable for an entire ten-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is $50 for the ten-year license term.

10. *Aviation (Aircraft) Service:* These services include stations authorized to provide communications between aircraft and between aircraft and ground stations and include frequencies used to communicate with air traffic control facilities pursuant to part 87 of the Commission's Rules. The Telecommunications Act of 1996 gave the Commission the authority to license certain aircraft radio stations by rule rather than by individual license. The commission exercises that authority. Private aircraft operators flying entirely within domestic U.S. airspace and who are not otherwise required by treaty or agreement to carry a radio are no longer required to hold an aircraft license, and they will not be required to pay a regulatory fee. For FY 2001, parties required to be licensed and those choosing to be licensed for Aviation (Aircraft) Stations will pay a $5 annual regulatory fee per station, payable for the entire ten-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is $50 per station for the ten-year license term.

11. *Aviation (Ground) Service:* This service includes stations authorized to provide ground-based communications to aircraft for weather or landing information, or for logistical support pursuant to part 87 of the Commission's Rules. Certain ground-based stations which only serve itinerant traffic, i.e., possess no actual units on which to assess a fee, are exempt from payment of regulatory fees. For FY 2001, licensees of Aviation (Ground) Stations will pay a $10 annual regulatory fee per license, payable for the entire five-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee is $50 per call sign for the five-year license term.

12. *General Mobile Radio Service (GMRS):* These services include Land Mobile Radio licensees providing personal and limited business communications between vehicles or to fixed stations for short-range, two-way communications pursuant to part 95 of the Commission's Rules. For FY 2001, GMRS licensees will pay a $5 annual regulatory fee per license, payable for an entire five-year license term at the time of application for a new, renewal or reinstatement license. The total regulatory fee due is $25 per license for the five-year license term.

13. *Rural Radiotelephone Service:* Rural Radiotelephone is a fixed radio service where a wireless technology is used to provide telephone service to subscribers in remote areas. This service operates in the paired 152/158 and 454/459 MHz band, pursuant to Parts 1 and 22 of the Commission's rules. For FY 2001, Rural Radiotelephone licensees will pay a $5 annual regulatory fee per license, payable for an entire ten-year license term at the time of application for a new, renewal or reinstatement license. The total regulatory fee due is $50 per license for the ten-year license term.

c. Amateur Radio Vanity Call Signs

14. *Amateur Vanity Call Signs:* This category covers voluntary requests for specific call signs in the Amateur Radio Service authorized under part 97 of the Commission's Rules. Applicants for Amateur Vanity Call-Signs will continue to pay a $1.40 annual regulatory fee per call sign, as prescribed in the FY 2000 fee schedule, payable for an entire ten-year license term at the time of application for a vanity call sign until the FY 2001 fee schedule becomes effective. The total regulatory fee due would be $14 per license for the ten-year license term.[161] For FY 2001, Amateur Vanity Call Sign applicants will pay a $1.20 annual regulatory fee per call sign, payable for an entire ten-year term at the time of application for a new, renewal or reinstatement license; this total fee due is $12 per call sign for a ten-year license term.

d. Commercial Wireless Radio Services

15. *Commercial Mobile Radio Services (CMRS) Mobile Services:* The Commercial Mobile Radio Service (CMRS) is an ''umbrella'' descriptive term attributed to various existing broadband services authorized to provide interconnected mobile radio services for profit to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public. CMRS Mobile Services include certain licensees which formerly were licensed as part of the Private Radio Services (e.g., Specialized Mobile Radio Services) and others formerly licensed as part of the Common Carrier Radio Services (e.g., Public Mobile Services and Cellular Radio Service). While specific rules pertaining to each covered service remain in separate parts 22, 24, 27, 80 and 90, general rules for CMRS are contained in part 20. CMRS Mobile Services will include: Specialized Mobile Radio Services (part 90);[162] Broadband Personal Communications Services (part 24), Public Coast Stations (part 80); Public Mobile Radio (Cellular, 800 MHz Air-Ground Radiotelephone, and Offshore Radio Services) (part 22); and Wireless Communications Service (part 27). Each licensee in this group will pay an annual regulatory fee for each mobile or cellular unit (mobile or telephone number), assigned to its customers, including resellers of its services. For FY 2001, the regulatory fee is $.27 per unit.

16. *Commercial Mobile Radio Services (CMRS) Messaging Services:* The Commercial Mobile Radio Service (CMRS) is an ''umbrella'' descriptive term attributed to various existing narrowband services authorized to provide interconnected mobile radio services for profit to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public. CMRS Messaging Services include certain licensees which formerly were licensed as part of the Private Radio Services (e.g., Private Paging and Radiotelephone Service), licensees formerly licensed as part of the Common Carrier Radio Services (e.g., Public Mobile One-Way Paging), licensees of Narrowband Personal Communications Service (PCS) (e.g.,

[161] Section 9(h) exempts ''amateur radio operator licenses under part 97 of the Commission's rules (47 CFR part 97)'' from the requirement. However, section 9(g)'s fee schedule explicitly includes ''Amateur vanity call signs'' as a category subject to the payment of a regulatory fee.

[162] This category does not include licenses of private shared-use 220 MHz and 470 MHz and above in the Specialized Mobile Radio (SMR) service who have elected to remain non-commercial. Those who have elected not to change to the Commercial Mobile Radio Service (CMRS) are referred to paragraph 4 of this Attachment.

one-way and two-way paging), and 220–222 MHz Band and Interconnected Business Radio Service. This category also includes small SMR systems authorized for use of less than 10 MHz of bandwidth. While specific rules pertaining to each covered service remain in separate parts 22, 24 and 90, general rules for CMRS are contained in part 20. Each licensee in the CMRS Messaging Services will pay an annual regulatory fee for each unit (pager, telephone number, or mobile) assigned to its customers, including resellers of its services. For FY 2001, the regulatory fee is $.05 per unit.

17. Finally, we are reiterating our definition of CMRS payment units to say that fees are assessable on each PCS or cellular telephone and each one-way or two-way pager capable of receiving or transmitting information, whether or not the unit is ''active'' on the ''as-of'' date for payment of these fees. The unit becomes ''feeable'' if the unit end user or assignee has possession of the unit and the unit is capable of transmitting or receiving voice or non-voice messages or data, and the unit is either owned or operated by the licensee of the CMRS system or a reseller, or the end user of a unit has a contractual agreement for the provision of a CMRS service from a CMRS system licensee or a CMRS service reseller. The responsible payer of the regulatory fee is the CMRS licensee. For example, John Doe purchases a pager and obtains a paging services contract from Paging Licensee X. Paging Licensee X is responsible for paying the applicable regulatory fee for this unit. Likewise, Cellular Licensee Y donates cellular phones to a high school and the high school either pays for or obtains free cellular service from Cellular Licensee Y. In this situation, Cellular Licensee Y is responsible for paying the applicable regulatory fees for these units.

2. Mass Media Services

18. The regulatory fees for the Mass Media fee category apply to broadcast licensees and permittees. Noncommercial Educational Broadcasters are exempt from regulatory fees.

a. Commercial Radio

19. These categories include licensed Commercial AM (Classes A, B, C, and D) and FM (Classes A, B, B1, C, C1, C2, and C3) Radio Stations operating under part 73 of the Commission's Rules.[163] We have combined class of station and city grade contour population data to formulate a schedule of radio fees which differentiate between stations based on class of station and population served. In general, higher class stations and stations in metropolitan areas will pay higher fees than lower class stations and stations located in rural areas. The specific fee that a station must pay is determined by where it ranks after weighting its fee requirement (determined by class of station) with its population. The regulatory fee classifications for Radio Stations for FY 2001 are as follows:

FY 2001 RADIO STATION REGULATORY FEES

Population served	AM Class	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C1 & C2
≦20,000	450	350	250	300	350	450
20,001–50,000	850	675	350	475	675	850
50,001–125,000	1,375	900	475	700	900	1,375
125,001–400,000	2,050	1,450	725	875	1,450	2,050
400,001–1,000,000	2,850	2,300	1,300	1,550	2,300	2,850
>1,000,000	4,550	3,750	1,900	2,400	3,750	4,550

20. Licensees may determine the appropriate fee payment by referring to the FCC's Internet world wide web site (http://www.fcc.gov) or by calling the FCC's National Call Center (1–888–225–5322). The same information may be included in the Public Notices mailed to each licensee for which we have a current address on file

(Note: Non-receipt of a Public Notice does not relieve a licensee of its obligation to submit its regulatory fee payment.)

b. Construction Permits—Commercial AM Radio

21. This category includes holders of permits to construct new Commercial AM Stations. For FY 2001, permittees will pay a fee of $280 for each permit held. Upon issuance of an operating license, this fee would no longer be applicable and licensees would be required to pay the applicable fee for the designated group within which the station appears.

c. Construction Permits—Commercial FM Radio

22. This category includes holders of permits to construct new Commercial FM Stations. For FY 2001, permittees will pay a fee of $925 for each permit held. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a regulatory fee based upon the designated group within which the station appears.

d. Commercial Television Stations

23. This category includes licensed Commercial VHF and UHF Television Stations covered under part 73 of the Commission's Rules, except commonly owned Television Satellite Stations, addressed separately below. Markets are Nielsen Designated Market Areas (DMA) as listed in the *Television & Cable Factbook,* Stations Volume No. 69, 2001 Edition, Warren Publishing, Inc. The fees for each category of station are as follows:

VHF Markets 1–10	$45,100
VHF Markets 11–25	32,825
VHF Markets 26–50	21,325
VHF Markets 51–100	13,750
VHF Remaining Markets	3,275
UHF Markets 1–10	15,150
UHF Markets 11–25	12,300
UHF Markets 26–50	7,075
UHF Markets 51–100	4,075
UHF Remaining Markets	1,150

e. Commercial Television Satellite Stations

24. Commonly owned Television Satellite Stations in any market (authorized pursuant to Note 5 of § 73.3555 of the Commission's Rules) that retransmit programming of the primary station are assessed a fee of $740 annually. Those stations

[163] The Commission acknowledges that certain stations operating in Puerto Rico and Guam have been assigned a higher level station class than would be expected if the station were located on the mainland. Although this results in a higher regulatory fee, we believe that the increased interference protection associated with the higher station class is necessary and justifies the fee.

designated as Television Satellite Stations in the 2001 Edition of the *Television and Cable Factbook* are subject to the fee applicable to Television Satellite Stations. All other television licensees are subject to the regulatory fee payment required for their class of station and market.

f. Construction Permits—Commercial VHF Television Stations

25. This category includes holders of permits to construct new Commercial VHF Television Stations. For FY 2001, VHF permittees will pay an annual regulatory fee of $3,075. This fee would no longer be applicable when an operating license is issued. Instead, licensees would pay a fee based upon the designated market of the station.

g. Construction Permits—Commercial UHF Television Stations

26. This category includes holders of permits to construct new UHF Television Stations. For FY 2001, UHF Television permittees will pay an annual regulatory fee of $4,000. This fee would no longer be applicable when an operating license is issued. Instead, licensees would pay a fee based upon the designated market of the station.

h. Construction Permits—Satellite Television Stations

27. The fee for UHF and VHF Television Satellite Station construction permits for FY 2001 is $480. An individual regulatory fee payment is to be made for each Television Satellite Station construction permit held.

i. Low Power Television, FM Translator and Booster Stations, TV Translator and Booster Stations

28. This category includes Low Power UHF/VHF Television stations operating under part 74 of the Commission's Rules with a transmitter power output limited to 1 kW for a UHF facility and, generally, 0.01 kW for a VHF facility. Low Power Television (LPTV) stations may retransmit the programs and signals of a TV Broadcast Station, originate programming, and/or operate as a subscription service. This category also includes translators and boosters operating under part 74 which rebroadcast the signals of full service stations on a frequency different from the parent station (translators) or on the same frequency (boosters). The stations in this category are secondary to full service stations in terms of frequency priority. We have also received requests for waivers of the regulatory fees from operators of community based Translators. These Translators are generally not affiliated with commercial broadcasters, are nonprofit, nonprofitable, or only marginally profitable, serve small rural communities, and are supported financially by the residents of the communities served. We are aware of the difficulties these Translators have in paying even minimal regulatory fees, and we have addressed those concerns in the ruling on reconsideration of the FY 1994 *Report and Order.* Community based Translators that meet certain requirements will have their fees waived.[164] For FY 2001, licensees in low power television, FM translator and booster, and TV translator and booster category will pay a regulatory fee of $305 for each license held.

j. Broadcast Auxiliary Stations

29. This category includes licensees of remote pickup stations (either base or mobile) and associated accessory equipment authorized pursuant to a single license, Aural Broadcast Auxiliary Stations (Studio Transmitter Link and Inter-City Relay) and Television Broadcast Auxiliary Stations (TV Pickup, TV Studio Transmitter Link, TV Relay) authorized under part 74 of the Commission's Rules. Auxiliary Stations are generally associated with a particular television or radio broadcast station or cable television system. This category does not include translators and boosters (see paragraph 28 *supra*). For FY 2001, licensees of Commercial Auxiliary Stations will pay an $10 annual regulatory fee on a per call sign basis.

k. Multipoint Distribution Service

30. This category includes Multipoint Distribution Service (MDS), Local Multipoint Distribution (LMDS), and Multichannel Multipoint Distribution Service (MMDS), authorized under parts 21 and 101 of the Commission's Rules to use microwave frequencies for video and data distribution within the United States. For FY 2001, MDS, LMDS, and MMDS stations will pay an annual regulatory fee of $450 per call sign.

3. Cable Services

a. Cable Television Systems

31. This category includes operators of Cable Television Systems, providing or distributing programming or other services to subscribers under part 76 of the Commission's Rules. For FY 2001, Cable Systems will pay a regulatory fee of $.49 per subscriber.[165] Payments for Cable Systems are to be made on a per subscriber basis as of December 31, 2000. Cable Systems should determine their subscriber numbers by calculating the number of single family dwellings, the number of individual households in multiple dwelling units, *e.g.,* apartments, condominiums, mobile home parks, etc., paying at the basic subscriber rate, the number of bulk rate customers and the number of courtesy or fee customers. In order to determine the number of bulk rate subscribers, a system should divide its bulk rate charge by the annual subscription rate for individual households. See FY 1994 *Report and Order,* Appendix B at paragraph 31.

b. Cable Television Relay Service

32. This category includes Cable Television Relay Service (CARS) stations used to transmit television and related audio signals, signals of AM and FM Broadcast Stations, and cablecasting from the point of reception to a terminal point from where the signals are distributed to the public by a Cable Television System. For FY 2001, licensees will pay an annual regulatory fee of $55 per CARS license.

4. Common Carrier Services

a. Commercial Microwave (Domestic Public Fixed Radio Service)

33. This category includes licensees in the Point-to-Point Microwave Radio Service, Local Television Transmission Radio Service, and Digital Electronic Message Service, authorized under part 101 of the Commission's Rules to use microwave frequencies for video and data distribution within the United States. These services are now included in the Microwave category (see paragraph 5 *supra*).

b. Interstate Telephone Service Providers

34. This category includes all providers of local and telephone services to end users. Covered services include the interstate and international portion of wireline local exchange service, local and long distance private line services for both voice and data, dedicated and network packet and packet-like services, long distance message telephone services, and other local and toll services. Providers of such services are referred to herein as ''interstate telephone service providers''.

Interstate service providers include CAPs/CLECs, incumbent local exchange carriers (local telephone operating companies), interexchange carriers (long distance telephone companies), local resellers, OSPs (operator service

[164] See 10 FCC Rcd 12759, 12762 (1995).

[165] Cable systems are to pay their regulatory fees on a per subscriber basis rather than per 1,000 subscribers as set forth in the statutory fee schedule. See FY 1994 *Report and Order* at paragraph 100.

providers that enable customers to make away from home calls and to place calls with alternative billing arrangements), payphone service providers, prepaid service providers, private service providers, satellite carriers that provide fixed local or message toll services, shared tenant service providers, toll resellers, and other local and other service providers.

To avoid imposing a double payment burden on resellers, we base the regulatory fee on end-user revenues. Interstate telephone service providers, including resellers, must submit fee payments based upon their proportionate share of interstate and international end-user revenues for local and toll services. We use the terms end-user revenues, local service and toll service, based on the methodology used for calculating contributions to the Universal Service support mechanisms.[166] Interstate telephone service providers do not pay regulatory fees on revenues from the provision of intrastate local and toll services, wireless monthly and local message services, satellite toll services, carrier's carrier telecommunications services, customer premises equipment, Internet service and non-telecommunications services. For FY 2001, carriers must multiply their interstate and international revenues from subject local and toll services by the factor 0.00132 to determine the appropriate fee for this category of service. Regulatees may want to use the following worksheet to determine their fee payment: [167]

CALENDAR 2000 REVENUE INFORMATION

[Show amounts in whole dollars]

1	Service provided by U.S. carriers that both originates and terminates in foreign points. Form 499–A Line 412(e)	.....
2	Interstate end-user revenues from all telecommunications services. Form 499–A Line 420(d)	.....
3	International end-user revenues from all telecommunications services except international-to-international. Form 499–A Line 420(e)	.....
4	Total end-user revenues (Sum of lines 1, 2 and 3) Note: also enter this number on Block (28A)—''FCC Code 1''	.....
5	End-user interstate mobile service monthly and activation charges. Form 499–A Line 409(d)	.....
6	End-user international mobile service monthly and activation charges. Form 499–A Line 409(e)	.....
7	End-user interstate mobile service message charges including roaming charges but excluding toll charges. Form 499–A Line 410(d)	.....
8	End-user international mobile service message charges including roaming charges but excluding toll charges. Form 499–A Line 410(e)	.....
9	End-user interstate satellite services. Form 499–A Line 416(d)	.....
10	End-user international satellite services. Form 499–A Line 416(e)	.....
11	Surcharges on mobile and satellite services identified as recovering universal service contributions and included in line 403(d) or 403(e) on your FCC Form 499–A. [Note: you may not include surcharges applied to local or toll services, nor any surcharges identified as intrastate surcharges.]	.....
12	Interstate and international revenues from resellers that do not contribute to USF. Form 499–A Line 511(b)	.....
13	Total excluded end-user revenues. (Sum lines 5 through 12.) Note: also enter this number on Block (29A)—''FCC Code 2''	.....
14	Total subject revenues. (Line 4 minus Line 13) Note: also enter this number on Block (25A)—''Quantity''	.....
15	Interstate telephone service provider fee factor	.00132
16	2001 Regulatory Fee (Line 14 times Line 15) * Note: also enter this number on Block (27A)—''Total Fee''	.....

*You are exempt from filing if the amount on line 16 is less than $10.

5. International Services

a. Earth Stations

35. Very Small Aperture Terminal (VSAT) Earth Stations, equivalent C-Band Earth Stations and antennas, and earth station systems comprised of very small aperture terminals operate in the 12 and 14 GHz bands and provide a variety of communications services to other stations in the network. *VSAT* systems consist of a network of technically-identical small Fixed-Satellite Earth Stations which often include a larger hub station. VSAT Earth Stations and C-Band Equivalent Earth Stations are authorized pursuant to part 25 of the Commission's Rules. *Mobile Satellite Earth Stations*, operating pursuant to part 25 of the Commission's Rules under blanket licenses for mobile antennas (transceivers), are smaller than one meter and provide voice or data communications, including position location information for mobile platforms such as cars, buses, or trucks.[168] *Fixed-Satellite Transmit/Receive and Transmit-Only Earth Station antennas*, authorized or registered under part 25 of the Commission's Rules, are operated by private and public carriers to provide telephone, television, data, and other forms of communications. Included in this category are telemetry, tracking and control (TT&C) earth stations, and earth station uplinks. For FY 2001, licensees of VSATs, Mobile Satellite Earth Stations, and Fixed-Satellite Transmit/Receive and Transmit-Only Earth Stations will pay a fee of $180 per authorization or registration *as well as a separate fee of $180 for each associated Hub Station.*

36. *Receive-only earth stations.* For FY 2001, there is no regulatory fee for receive-only earth stations.

b. Space Stations (Geostationary Orbit)

37. Geostationary Orbit (also referred to as Geosynchronous) Space Stations are domestic and international satellites positioned in orbit to remain approximately fixed relative to the earth. Most are authorized under part 25 of the Commission's Rules to provide communications between satellites and earth stations on a common carrier and/or private carrier basis. In addition, this category includes Direct Broadcast Satellite (DBS) Service which includes space stations authorized under part 100 of the Commission's rules to transmit or re-transmit signals for direct reception by the general public encompassing both individual and community

[166] *See* 1998 Biennial Regulatory Review—Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Report and Order, FCC 99–175, CC Docket No. 98–171 (rel. July 14, 1999), 64 FR 41320 (Jul. 30, 1999) (Contributor Reporting Requirements Order).

[167] Although use of the worksheet is voluntary, we encourage its use and recommend that a completed copy be attached to your fee filing.

[168] Mobile earth stations are hand-held or vehicle-based units capable of operation while the operator or vehicle is in motion. In contrast, transportable units are moved to a fixed location and operate in a stationary (fixed) mode. Both are assessed the same regulatory fee for FY 2001.

reception. For FY 2001, entities authorized to operate geostationary space stations (including DBS satellites) will be assessed an annual regulatory fee of $98,125 per operational station in orbit. Payment is required for any geostationary satellite that has been launched and tested and is authorized to provide service.

c. Space Stations (Non-Geostationary Orbit)

38. Non-Geostationary Orbit Systems (such as Low Earth Orbit (LEO) Systems) are space stations that orbit the earth in non-geosynchronous orbit. They are authorized under part 25 of the Commission's rules to provide communications between satellites and earth stations on a common carrier and/or private carrier basis. For FY 2001, entities authorized to operate Non-Geostationary Orbit Systems (NGSOs) will be assessed an annual regulatory fee of $94,425 per operational system in orbit. Payment is required for any NGSO System that has one or more operational satellites operational. In our FY 1997 *Report and Order* at paragraph 75 we retained our requirement that licensees of LEOs pay the LEO regulatory fee upon their certification of operation of a single satellite pursuant to section 25.120(d). We require payment of this fee following commencement of operations of a system's first satellite to insure that we recover our regulatory costs related to LEO systems from licensees of these systems as early as possible so that other regulatees are not burdened with these costs any longer than necessary. Because section 25.120(d) has significant implications beyond regulatory fees (such as whether the entire planned cluster is operational in accordance with the terms and conditions of the license) we previously clarified our definition of an operational LEO satellite to prevent misinterpretation of our intent as follows:

Licensees of Non-Geostationary Satellite Systems (such as LEOs) are assessed a regulatory fee upon the commencement of operation of a system's first satellite as reported annually pursuant to §§ 25.142(c), 25.143(e), 25.145(g), or upon certification of operation of a single satellite pursuant to § 25.120(d).

d. International Bearer Circuits

39. Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers (either domestic or international) activating the circuit in any transmission facility for the provision of service to an end user or resale carrier. Payment of the fee for bearer circuits by non-common carrier submarine cable operators is required for circuits sold on an indefeasible right of use (IRU) basis or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. *See* FY 1994 *Report and Order* at 5367. Payment of the international bearer circuit fee is also required by non-common carrier satellite operators for circuits sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. The fee is based upon active 64 kbps circuits, or equivalent circuits. Under this formulation, 64 kbps circuits or their equivalent will be assessed a fee. Equivalent circuits include the 64 kbps circuit equivalent of larger bit stream circuits. For example, the 64 kbps circuit equivalent of a 2.048 Mbps circuit is 30 64 kbps circuits. Analog circuits such as 3 and 4 kHz circuits used for international service are also included as 64 kbps circuits. However, circuits derived from 64 kbps circuits by the use of digital circuit multiplication systems are not equivalent 64 kbps circuits. Such circuits are not subject to fees. Only the 64 kbps circuit from which they have been derived will be subject to payment of a fee. For FY 2001, the regulatory fee is $5 for each active 64 kbps circuit or equivalent. For analog television channels we will assess fees as follows:

Analog television channel size in MHz	Number of equivalent 64 kbps circuits
36	630
24	288
18	240

e. International Public Fixed

40. This fee category includes common carriers authorized under part 23 of the Commission's Rules to provide radio communications between the United States and a foreign point via microwave or HF troposcatter systems, other than satellites and satellite earth stations, but not including service between the United States and Mexico and the United States and Canada using frequencies above 72 MHz. For FY 2001, International Public Fixed Radio Service licensees will pay a $1,275 annual regulatory fee per call sign.

f. International (HF) Broadcast

41. This category covers International Broadcast Stations licensed under part 73 of the Commission's Rules to operate on frequencies in the 5,950 kHz to 26,100 kHz range to provide service to the general public in foreign countries. For FY 2001, International HF Broadcast Stations will pay an annual regulatory fee of $680 per station license.

Attachment G.—Description of FCC Activities

Licensing: This activity includes the authorization or licensing of radio stations, telecommunications equipment and radio operators, as well as the authorization of common carrier and other services and facilities. Includes direct organizational FTE and FTE workyear effort provided by staff offices to support policy direction, program development, legal services, and executive direction, as well as support services associated with licensing activities. (Cost of this activity is not included in determining regulatory fees.)

Competition: This activity includes formal inquiries, rulemaking proceedings to establish or amend the Commission's rules and regulations, action on petitions for rulemaking, and requests for rule interpretations or waivers; economic studies and analyses; spectrum planning, modeling, propagation-interference analyses and allocation; and development of equipment standards. Includes direct organizational FTE and FTE workyear effort provided by staff offices to support policy direction, program development, legal services, and executive direction, as well as support services associated with activities to promote competition.

Enforcement: This activity includes enforcement of the Commission's rules, regulations and authorizations, including investigations, inspections, compliance monitoring, and sanctions of all types. Also includes the receipt and disposition of formal and informal complaints regarding common carrier rates and services, the review and acceptance/rejection of carrier tariffs, and the review, prescription and audit of carrier accounting practices. Includes direct organizational FTE and FTE workyear effort provided by staff offices to support policy direction, program development, legal services, and executive direction, as well as support services associated with enforcement activities.

Consumer Information Services: This activity includes the publication and dissemination of Commission decisions and actions, and related activities; public reference and library services; the duplication and dissemination of Commission records and databases; the receipt and disposition of public

inquiries; consumer, small business, and public assistance; and public affairs and media relations. Includes direct organizational FTE and FTE workyear effort provided by staff offices to support policy direction, program development, legal services, and executive direction, as well as support services associated with consumer information activities.

Spectrum Management: This activity includes management of the electromagnetic spectrum as mandated by the Communications Act of 1934, as amended. Spectrum management includes the structure and processes for allocating, allotting, assigning, and licensing this scarce resource to the private sector and state and local governments in a way that promotes competition while ensuring that the public interest is best served. In order to manage spectrum in both an efficient and equitable manner, the Commission prepares economic, technical and engineering studies, coordinates with federal agencies, and represents U.S. industry in international for a. Includes direct organizational FTE and FTE workyear effort provided by staff offices to support policy direction, program development, legal services, and executive direction, as well as support services associated with spectrum management activities.

Attachment H.—Factors, Measurements and Calculations That Go Into Determining Station Signal Contours and Associated Population Coverages

AM Stations

Specific information on each day tower, including field ratio, phasing, spacing and orientation was retrieved, as well as the theoretical pattern RMS figure (mV/m @ 1 km) for the antenna system. The standard, or modified standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in §§ 73.150 and 73.152 of the Commission's rules.[169] Radiation values were calculated for each of 72 radials around the transmitter site (every 5 degrees of azimuth). Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure M3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the city grade (5 mV/m) contour was predicted for each of the 72 radials. The resulting distance to city grade contours were used to form a geographical polygon. Population counting was accomplished by determining which 1990 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted city grade coverage area.

FM Stations

The maximum of the horizontal and vertical HAAT (m) and ERP (kW) was used. Where the antenna HAMSL was available, it was used in lieu of the overall HAAT figure to calculate specific HAAT figures for each of 72 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the propagation curves specified in § 73.313 of the Commission's rules to predict the distance to the city grade (70 dBuV/m or 3.17 mV/m) contour for each of the 72 radials.[170] The resulting distance to city grade contours were used to form a geographical polygon. Population counting was accomplished by determining which 1990 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted city grade coverage area.

Attachment I

Parties Filing Comments on the Notice of Proposed Rulemaking

Juddie D. Burgess
WorldCom, Inc. (''WorldCom'')
Cellular Telecommunications & Internet Association (''CTIA'')
Wireless Communications Association International, Inc. (''WCA'')
Winstar Communications, Inc. (''Winstar'')
Verizon Wireless (''Verizon'')
IPWireless, Inc. (''IPWireless'')
Paxson Communications Corporation (''Paxson'')

Parties Filing Reply Comments

Sprint Corporation (''Sprint'')

Attachment J.—AM and FM Radio Regulatory Fees

The List of regulatory fees is available from the FCC Public Reference Room, CY–A257, 445 12th St. SW., Washington, DC 20554.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for Part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325 (e).

2. Section 1.1117 paragraph (c) is revised to read as follows:

§ 1.1117 Petitions and applications for review.

* * * * *

(c) Petitions for waivers, deferrals, fee determinations, reconsiderations and applications for review will be acted upon by the Managing Director with the concurrence of the General Counsel. All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission. Requests for deferral of a fee payment for financial hardship must be accompanied by supporting documentation.

(1) Petitions and applications for review submitted with a fee must be submitted to the Commission's lockbox bank at the address for the appropriate service set forth in §§ 1.1102 through 1.1105.

(2) If no fee payment is submitted, the request should be filed with the Commission's Secretary.

* * * * *

3. Section 1.1152 is revised to read as follows:

§ 1.1152 Schedule of annual regulatory fees and filing locations for wireless radio services.

	Fee amount [1]	Address
1. Land Mobile (Above 470 MHz and 220 MHz Local, Base Station & SMRS) (47 CFR, Part 90)		
(a) New, Renew/Mod (FCC 601 & 159)	$5.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251–5130.

[169] 47 CFR 73.150 and 73.152.

[170] 47 CFR 73.313.

	Fee amount [1]	Address
(b) New, Renew/Mod (Electronic Riling) (FCC 601 & 159)	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
(c) Renewal Only (FCC 601 & 159)	$5.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251–5245.
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5245.
220 MHz Nationwide		
(a) New, Renew/Mod (FCC 601 & 159)	$5.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251–5130.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
(c) Renewal Only (FCC 601 & 159)	$5.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251–5245.
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
2. Microwave (47 CFR Pt. 101) (Private)		
(a) New, Renew/Mod (FCC 601 & 159)	$5.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251–5130.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
(c) Renewal Only (FCC 601 & 159)	$5.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251–5245.
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
3. 218–219 MHz Service		
(a) New, Renew/Mod (FCC 601 & 159)	$10.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251–5130.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	$10.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
(c) Renewal Only (FCC 601 & 159)	$10.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251–5245.
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	$10.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
4. Shared Use Services		
Land Mobile (Frequencies Below 470 MHz—except 220 MHz)		
(a) New, Renew/Mod (FCC 601 & 159)	$5.00	FCC, P.O. Box 358130, Pittsburgh, PA 15251–5130.
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
(c) Renewal Only (FCC 601 & 159)	$5.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251–5245.
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
General Mobile Radio Service		
(a) New, Renew/Mod (FCC 605 & 159)	$5.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251–5130.
(b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159)	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
(c) Renewal Only (FCC 605 & 159)	$5.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251–5245.
(d) Renewal Only (Electronic Filing) (FCC 605 & 159)	$5.00	FCC P.O. Box 358994, Pittsburgh, PA, 15251–5994.
Rural Radio (Part 22)		
(a) New, Additional Facility, Major Renew/Mod (Electronic Filing) (FCC 601 & 159).	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
(b) Renewal, Minor Renew/Mod (Electronic Filing) (FCC 601 & 159).	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
Marine Coast		
(a) New Renewal/Mod (FCC 601 & 159)	$5.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251–5130.
(b) Renewal Only (FCC 601 & 159)	$5.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251–5245.
(c) Renewal Only (Electronic Filing) (FCC 601 & 159)	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
Aviation Ground		
(a) New, Renewal/Mod (FCC 601 & 159)	$10.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251–5130.
(b) Renewal Only (FCC 601 & 159)	$10.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251–5245.
(c) Renewal Only (Electronic Filing) (FCC 601 & 159)	$10.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
Marine Ship		
(a) New, Renewal/Mod (FCC 605 & 159)	$10.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251–5130.
(b) New, Renewal/Mod (Electronic Filing) (FCC 605 & 159)	$10.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
(c) Renewal Only (FCC 605 & 159)	$10.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251–5245.
(d) Renewal Only (Electronic Filing) (FCC 605 & 159)	$10.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
Aviation Aircraft		
(a) New, Renew/Mod (FCC 605 & 159)	$5.00	FCC, P.O. Box 358130, Pittsburgh, PA, 15251–5130.
(b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159)	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
(c) Renewal Only (FCC 605 & 159)	$5.00	FCC, P.O. Box 358245, Pittsburgh, PA, 15251–5245.
(d) Renewal Only (Electronic Filing) (FCC 605 & 159)	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
5. Amateur Vanity Call Signs		
(a) Initial or Renew (FCC 605 & 159)	$1.20	FCC, P.O. Box 358130, Pittsburgh, PA, 15251–5130.
(b) Initial or Renew (Electronic Filing) (FCC 605 & 159)	$1.20	FCC, P.O. Box 358994, Pittsburgh, PA, 15251–5994.
6. CMRS Mobile Services (per unit)		
(FCC 159)	$.27	FCC, P.O. Box 358835, Pittsburgh, PA, 15251–5835.
7. CMRS Messaging Services (per unit)		

	Fee amount [1]	Address
(FCC 159)	$.05	FCC, P.O. Box 358835, Pittsburgh, PA, 15251–5835.

[1] Note that ''small fees'' are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table must be multiplied by the 5- or 10-year license term, as appropriate, to arrive at the total amount of regulatory fees owed. It should be further noted that application fees may also apply as detailed in § 1.1102 of this chapter.

4. Section 1.1153 is revised to read as follows:

§ 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.

	Fee amount	Address
Radio [AM and FM] (47 CFR, Part 73)		
1. *AM Class A*		
≦20,000 population	$450	FCC, Radio, P.O. Box 358835, Pittsburgh, PA, 15251–5835.
20,001–50,000 population	$850	
50,001–125,000 population	$1,375	
125,001–400,000 population	$2,050	
400,001–1,000,000 population	$2,850	
>1,000,000 population	$4,550	
2. *AM Class B*		
≦20,000 population	$350	
20,001–50,000 population	$675	
50,001–125,000 population	$900	
125,001–400,000 population	$1,450	
400,001–1,000,000 population	$2,300	
>1,000,000 population	$3,750	
3. *AM Class C*		
≦20,000 population	$250	
20,001–50,000 population	$350	
50,001–125,000 population	$475	
125,001–400,000 population	$725	
400,001–1,000,000 population	$1,300	
>1,000,000 population	$1,900	
4. *AM Class D*		
≦20,000 population	$300	
20,001–50,000 population	$475	
50,001–125,000 population	$700	
125,001–400,000 population	$875	
400,001–1,000,000 population	$1,550	
>1,000,000 population	$2,400	
5. AM Construction Permit	$280	
6. *FM Classes A, B1 and C3*		
≦20,000 population	$350	
20,001–50,000 population	$675	
50,001–125,000 population	$900	
125,001–400,000 population	$1,450	
400,001–1,000,000 population	$2,300	
>1,000,000 population	$3,750	
7. *FM Classes B, C, C1 and C2*		
≦20,000 population	$450	
20,001–50,000 population	$850	
50,001–125,000 population	$1,375	
125,001–400,000 population	$2,050	
400,001–1,000,000 population	$2,850	
>1,000,000 population	$4,550	
8. FM Construction Permits	$925	
TV (47 CFR, Part 73)		
VHF Commercial		
1. Markets 1 thru 10	$45,100	FCC, TV Branch, P.O. Box 358835, Pittsburgh, PA, 15251–5835.
2. Markets 11 thru 25	$32,825	
3. Markets 26 thru 50	$21,325	
4. Markets 51 thru 100	$13,750	
5. Remaining Markets	$3,275	
6. Construction Permits	$3,075	

	Fee amount	Address
UHF Commercial		
1. Markets 1 thru 10	$15,150	FCC, UHF Commercial, P.O. Box 358835, Pittsburgh, PA, 15251–5835.
2. Markets 11 thru 25	$12,300	
3. Markets 26 thru 50	$7,075	
4. Markets 51 thru 100	$4,075	
5. Remaining Markets	$1,150	
6. Construction Permits	$4,000	
Satellite UHF/VHF Commercial		
1. All Markets	$740	FCC Satellite TV, P.O. Box 358835, Pittsburgh, PA, 15251–5835.
2. Construction Permits	$480	
Low Power TV, TV/FM Translator, & TV/FM Booster (47 CFR Part 74).	$305	FCC, Low Power, P.O. Box 358835, Pittsburgh, PA, 15251–5835;.
Broadcast Auxiliary	$10	FCC, Auxiliary, P.O. Box 358835, Pittsburgh, PA, 15251–5835.
Multipoint Distribution	$450	FCC, Multipoint, P.O. Box 358835, Pittsburgh, PA, 15251–5835.

5. Section 1.1154 is revised to read as follows:

§ 1.1154 Schedule of annual regulatory charges and filing locations for common carrier services.

	Fee amount	Address
Radio Facilities		
1. Microwave (Domestic Public Fixed)(Electronic Filing) (FCC Form 601 & 159).	$5.00	FCC, P.O. Box 358994, Pittsburgh, PA 15251–5994.
Carriers		
1. Interstate Telephone Service Providers (per interstate and international end-user revenues (see FCC Form 499–A).	$ .00132	FCC, Carrier, P.O. Box 358835, Pittsburgh, PA, 15251–5835.

6. Section 1.1155 is revised to read as follows:

§ 1.1155 Schedule of regulatory fees and filing locations for cable television services.

	Fee amount	Address
1. Cable Television Relay Service	$55	FCC, Cable, P.O. Box 358835, Pittsburgh, PA, 15251–5835.
2. Cable TV System (per subscriber)	.49	

7. Section 1.1156 is revised to read as follows:

§ 1.1156 Schedule of regulatory fees and filing locations for international services.

	Fee amount	Address
Radio Facilities		
1. International (HF) Broadcast	$680	FCC, International, P.O. Box 358835, Pittsburgh, PA, 15251–5835.
2. International Public Fixed	1,275	FCC, International, P.O. Box 358835, Pittsburgh, PA, 15251–5835.
Space Stations (Geostationary Orbit)	98,125	FCC, Space Stations, P.O. Box 358835, Pittsburgh, PA, 15251–5835.
Space Stations (Non-Geostationary Orbit)	94,425	FCC, Space Stations, P.O. Box 358835, Pittsburgh, PA, 15251–5835.
Earth Stations		
Transmit/Receive & Transmit Only (per authorization or registration).	180	FCC, Earth Station, P.O. Box 358835, Pittsburgh, PA, 15251–5835.
Carriers		
1. International Bearer Circuits (per active 64KB circuit or equivalent).	5.00	FCC, International, P.O. Box 358835, Pittsburgh, PA, 15251–5835.

8. Section 1.1166 paragraph (a) is revised to read as follows:

§ 1.1166 Waivers, reductions and deferrals of regulatory fees.

* * * * *

(a) Requests for waivers, reductions or deferrals will be acted upon by the Managing Director with the concurrence of the General Counsel. All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission.

(1) If the request for waiver, reduction or deferral is accompanied by a fee payment, the request must be submitted to the Commission's lockbox bank at the address for the appropriate service set forth in §§ 1.1152 through 1.1156 of this subpart.

(2) If no fee payment is submitted, the request should be filed with the Commission's Secretary.

* * * * *

[FR Doc. 01–17114 Filed 7–10–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 53

[CC Docket No. 96–149; FCC 01–140]

Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document summarized the Remand Order reaffirming the Commission's conclusion in the Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended (Non-Accounting Safeguards Order published January 21, 1997 at 62 FR 2927), that the term ''interLATA service'' used in section 271 encompasses interLATA information services as well as interLATA telecommunications services.

DATES: Effective July 11, 2001.

FOR FURTHER INFORMATION CONTACT: Brent Olson, Deputy Chief, Policy and Program Planning Division, Common Carrier Bureau, (202) 418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Remand, CC Docket No. 96–149, FCC 01–140, adopted April 23, 2001 and released April 27, 2001. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, (ITS, Inc.), CY–B400, 445 12th Street, SW., Washington, DC.

Synopsis

1. Section 271 of the Communications Act of 1934, as amended (Communications Act or Act), states that neither a Bell operating company (BOC) nor its affiliate may provide ''interLATA services'' except as set forth in that section. In the Non-Accounting Safeguards Order, the Commission concluded that the term ''interLATA services'' as used in section 271 encompasses interLATA telecommunications services and interLATA information services. Following the Commission's reconsideration of other aspects of the Non-Accounting Safeguards Order, the Bell Atlantic telephone companies (now known as the Verizon telephone companies) and US WEST, Inc. (now known as Qwest Communications International Inc.) (collectively, Petitioners) petitioned for judicial review of the Commission's determination that interLATA information services fall within the scope of interLATA services. Because the arguments advanced by the Petitioners in their appellate brief had not been raised in the administrative proceeding, the Commission moved for a voluntary remand to consider further the issues raised by the Petitioners. The D.C. Circuit granted the Commission's motion.

2. In this Order on Remand, the Commission examines the scope of the term ''interLATA services'' and reaffirms the Commission's conclusion in the Non-Accounting Safeguards Order that the term ''interLATA services'' as used in section 271 encompasses interLATA information services as well as interLATA telecommunications services. As summarized, the Commission finds that conclusion the most reasonable given the statutory language, structure, and history. The Commission also finds that its 1998 Universal Service Report to Congress is not inconsistent with this conclusion. A BOC therefore may provide interLATA information services only in accordance with the provisions of section 271.

3. Our conclusion reaffirms the longstanding view of the federal courts and this Commission that limitations on BOC provision of interLATA extend to interLATA information services. The D.C. Circuit examined precisely this question within the contours of the MFJ and explicitly rejected claims by some BOCs that information service cannot also constitute the provision of interLATA telecommunications in the context of the MFJ's interLATA prohibition. The Commission also reached this same conclusion in the Non-Accounting Safeguards Order, finding that an information service that contains a bundled interLATA telecommunications component includes ''telecommunications'' between points located in different LATAs, and thereby satisfies the statutory definition of an ''interLATA service.''

4. Even though, under the Communications Act of 1934, as amended, the terms ''information service'' and ''telecommunications service'' are mutually exclusive, each is a subset of the broader term ''interLATA services'' insofar as each type of service involves telecommunications that cross LATA boundaries. Indeed, this matter apparently was so clear in 1996 that the BOCs themselves urged the same construction of the statutory language. In a reversal of their prior position, the Petitioners claimed that the statutory language ''clearly'' requires precisely the opposite of what they previously asserted was the ''clear'' meaning. We reject their latest position as contrary to the Act's text, structure, history, and purpose.

I. Statutory Language

5. Whether section 271's restriction on the BOC's provision of interLATA services includes interLATA information services depends on the statutory language.

A. Is the InterLATA Restriction in Section 271(a) Governed by a Plain Meaning Interpretation?

6. The BOCs contend that a straightforward reading of the Act's definitions shows that a BOC that provides an information service via telecommunications cannot also be deemed to be providing an ''interLATA,'' which is defined as a form of telecommunications. We conclude that the relevant statutory definitions, either separately or in combination, do not clearly indicate whether ''interLATA services'' in section 271 includes or excludes information services. Rather, we find that including interLATA information

services within the scope of ''interLATA services'' in section 271 is the interpretation that most reasonably fits with the statutory language.

B. Do InterLATA Services as Used in Section 271(a) Encompass Only Separate Offerings of Telecommunications?

7. In the BOCs' view, the ''telecommunications'' referenced in the definition of ''interLATA service'' must comprise a separate offering to the customer and cannot be an input in the offering of an information or other service. Such an interpretation, however, is not supported in the statute because ''interLATA service'' does not require that the telecommunications aspect of such a service be provided directly to end-users rather than as a component in an unbundled offering. It suffices under the broad ''interLATA services'' definition that the information service is conveyed via telecommunications that is interLATA in nature.

C. What Impact Does the Commission's Previous Interpretation of the Term ''Provide,'' as Used in Section 271(a), Have on the Scope of the Term ''InterLATA Services?''

8. The term ''provide'' in section 271 must be construed in the context of the unique terms, structure, history, and purposes of that section. Use of the term ''provide'' in section 271(a) therefore must be considered in light of that section's dual purposes of preventing the BOCs from using bottleneck local facilities to discriminate in favor of their owned or leased interLATA facilities and giving the BOCs maximum incentive to open their local markets to competition. Thus, section 271's use of ''provide'' should be read to apply to information services that include interLATA transmission components.

II. Statutory Structure

9. Our conclusion that interLATA services encompass information services permits a uniform application of the terms and structure of sections 271 and 272. Section 271(g) explicitly exempts some information services from the interLATA services restriction in section 271(a). By exempting these services, the statute presupposes that ''incidental interLATA services'' are a subset of the broader category of interLATA services to which the restriction applies. If information services identified in section 271(g), when conveyed via interLATA telecommunications, were not also ''interLATA services,'' it would have been unnecessary for Congress to exempt them from section 271(a)'s restriction.

10. The BOC's claim that Congress enacted certain provisions of section 271(g) as mere ''extra, unnecessary assurance'' that certain specified information services were not intended to be included within section 271(a)'s interLATA service restriction even though, under the BOC's rationale, such services should already be excluded from the section 271(a) restriction, under the plain meaning of section 271(a). This argument is flawed in multiple respects. First, it fails to interpret the statutory language in a manner that gives meaning to each word. Moreover, the BOC's argument conflicts with section 271(h), which states that the exceptions in section 271(g) are to be narrowly construed. Finally, the BOC's position would cause tension between section 271 and certain provisions of section 272, which requires the BOCs to provide both interLATA telecommunications services and interLATA information services through a separate affiliate.

III. Statutory Purpose and History

11. Allowing the BOCs immediately to provide information services across LATA boundaries would reduce the BOC's incentive to comply with the Section 271 market-opening requirements. We find no evidence that Congress intended to blunt the effectiveness of this incentive by excluding BOC provision of in-region, interLATA information services from the restrictions of section 271.

A. MFJ Precedent

12. Prior to the 1996 Act, the service offerings of the BOCs were governed by the consent decree, commonly known as the Modification of Final Judgment or MFJ, that settled the Department of Justice's antitrust suit against AT&T and required the divestiture of the BOCs. The MFJ prohibited the BOCs from entering certain lines of business, including interexchange (i.e., long distance) services and information services (provided on either an interLATA or intraLATA basis). Although the district court overseeing the decree eventually lifted the restriction on providing information services within a LATA, in the *Gateway Services Appeal* the court left intact the MFJ's ''core'' interLATA restrictions, which prevented the BOCs from providing information services on an interLATA basis.

B. Legislative History and Purpose

13. The 1996 Act enacted market-opening mechanisms to remove impediments to competition and give all carriers an opportunity to provide local services. Section 271 established a process for the BOCs to gain entry into the long distance market. However, Congress chose to maintain the MFJ's restriction on BOC provision of in-region, interLATA services until the BOC's local markets are open to competition.

14. In enacting the 1996 Act, Congress modified the interLATA restriction explicitly to allow the immediate provision of out-of-region interLATA services. The BOCs claim that this action somehow shows that Congress also intended to lift the MFJ's restriction on interLATA transmission of information services. However, nothing in the 1996 Act or its legislative history suggests that Congress intended to overrule the Gateway Services Appeal. We are not persuaded that Congress would preserve the in-region, interLATA restriction using language similar to that used in the decree yet intend a result sharply divergent from the D.C. Circuit's interpretation of that restriction. To the contrary, when Congress intended to modify the MFJ's restrictions, as in the case of out-of-region interLATA services, it did so explicitly.

15. We disagree with the BOCs that our construction of section 271 undermines Congress's goal of ''opening all telecommunications markets to competition.'' Congress did not seek to achieve the market-opening aspects of the 1996 Act by permitting the BOCs to provide interLATA immediately. We also reject the BOC's argument that treating interLATA information services as interLATA services will somehow subject information service providers to regulation as common carriers. The BOC's argument ignores the Act's distinction between ''telecommunications'' and ''telecommunications service.'' We also are not persuaded that the current state of the law results in a competitive disadvantage for the BOCs.

IV. Universal Service Report to Congress

16. Finally, the BOCs contend that our conclusion that the term ''interLATA services'' in section 271 includes interLATA information services is inconsistent with statements the Commission made in a 1998 Universal Service Report to Congress. The BOCs rely heavily on certain statements read in isolation and taken out of context to suggest that the terms ''information services'' and ''telecommunications'' are mutually exclusive. That language, however, is properly interpreted as

distinguishing between information services and telecommunications services, both of which include and use telecommunications.

17. In fact, the Report to Congress recognized that in cases in which an information service provider owns the underlying transmission facilities, and engages in data transport over those facilities in order to provide an information service, one could argue that the information service provider is ''providing'' telecommunications to itself by furnishing raw transmission capacity for its own use. Although the Commission does not currently require such information service providers to contribute to universal service mechanisms, the Commission indicated that it might be appropriate to reexamine that result. Moreover, the Commission examined the services provided by information service providers in general, leaving room for a different conclusion in specific situations.

List of Subjects in 47 CFR Part 53

Communications common carriers, Telecommunications, Bell operating companies.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–17168 Filed 7–10–01; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 990416100–9256–02; I.D. 031999C]

RIN 0648–AL18

Pacific Halibut Fisheries; Local Area Management Plan for the Halibut Fishery in Sitka Sound; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Correcting amendment.

SUMMARY: This document amends the final regulations published in the **Federal Register** on September 29, 1999, containing the geographic coordinates of Cape Edgecumbe, which is one of the boundary points of the Local Area Management Plan (LAMP) for the halibut fishery in Sitka Sound in the Gulf of Alaska.

DATES: Effective July 11, 2001.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008.

SUPPLEMENTARY INFORMATION: The final regulations that are the subject of these corrections were published on September 29, 1999. Those regulations implemented the Sitka Sound LAMP, which is intended to address user conflicts resulting from decreased availability of Pacific halibut within Sitka Sound, an area defined in the implementing regulations at § 300.63(d)(1) of the Code of Federal Regulations. In a recent review of this regulation, NMFS discovered a typographical error in the geographic coordinates of Cape Edgecumbe, one of the points describing the boundary of Sitka Sound within which the LAMP management measures apply.

Need for Correction

As published, § 300.63(d)(1)(i) correctly identifies Cape Edgecumbe as the starting point for the southwestern boundary of Sitka Sound, but incorrectly states that Cape Edgecumbe is located at 57°59′54″ N. lat., 135°51′27″ W. long., a geographic position that is one full degree (60 nautical miles) north of the true location of Cape Edgecumbe. This action amends section 300.63(d)(1)(i) and its associated Figure 1 to Subpart E by correctly describing the geographic coordinates of Cape Edgecumbe at 56°59′54″ N. lat., 135°51′27″ W. long.

Classification

The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately correct the published coordinates of Cape Edgecumbe will eliminate a potential source of confusion as to its location and the boundary of the Sitka Sound LAMP area and constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to authority set forth at 5 U.S.C. 553(b)(3)(B), as such procedures would be unnecessary and contrary to the public interest. Similarly, as this action does not change the designation of Cape Edgecumbe as one of the points describing the boundary of Sitka Sound and does not substantively alter the area within which the LAMP management measures apply, the Assistant Administrator for Fisheries, NOAA, waives the 30-day delay in effective date pursuant to 5 U.S.C. 553(d).

List of Subjects in 50 CFR Part 300

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Accordingly, 50 CFR part 300 is corrected by making the following correcting amendment:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for part 300 continues to read as follows:

Authority: 16 U.S.C. 773-773k.

2. Remove ''57°59′54″'' and replace it with ''56°59′54″'' in the following places:

(a) In § 300.63(d)(1)(i) and

(b) In Figure 1 to Subpart E–Sitka Sound Local Area Management Plan Boundaries b. Coordinates, under heading Southern Boundaries, paragraph (1).

Dated: July 3, 2001.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 01–17369 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010618159–01; I.D. 051101A]

RIN 0648–AO92

Fisheries of the Northeastern United States; Summer Flounder Fishery; Framework Adjustment 2

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 2 to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan (FMP). This final rule modifies the mechanism for specifying the annual management measures for the summer flounder recreational fishery by implementing a management system that will either constrain the recreational summer flounder fishery to coastwide management measures or allow states to customize summer flounder recreational management measures. The intent of this action is to establish a management system that allows states to customize recreational management measures while still meeting overall FMP objectives.

DATES: Effective July 29, 2001.

ADDRESSES: Copies of Framework Adjustment 2 to the Summer Flounder, Scup and Black Sea Bass FMP, its

Environmental Assessment (EA), and Regulatory Impact Review (RIR) are available on request from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 300 South New Street, Dover, DE 19904–6790.

FOR FURTHER INFORMATION CONTACT: David M. Gouveia, Fishery Policy Analyst, (978) 281–9280, fax (978) 281–9135, e-mail *david.gouveia@noaa.gov*.

SUPPLEMENTARY INFORMATION: The recreational summer flounder fishery is managed through an annual evaluation process, with annual measures established to achieve a coastwide recreational harvest limit. After the annual coastwide recreational harvest limit recommendation has been made by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission), the Summer Flounder Monitoring Committee (Committee) meets in December to recommend measures necessary to achieve the recreational harvest limit (seasons, possession limits and/or minimum fish sizes). The Council reviews the Committee's recommendations and any public comment prior to submitting its recommendations to NMFS. NMFS then is responsible for reviewing the Council's recommendation and assuring the measures will have at least a 50–percent likelihood of achieving the harvest limit.

Because the recreational summer flounder fishery is currently managed on a coastwide basis, the FMP requires that the same management measures apply to each state. However, summer flounder migration patterns have created differences in the availability of summer flounder to the recreational fisheries of the states. While coastwide measures achieve the target overall, they have a differential impact on the states because the availability of summer flounder to the recreational sector is not uniform across the states.

On September 9, 1999, NMFS enacted interim measures to allow states to implement in state waters conservation measures that were equivalent to the annual Federal summer flounder measures. The temporary interim measures were in effect while the Council developed a more comprehensive mechanism to address this issue on a permanent basis. Under the interim rule, states could select either an individualized combination of minimum fish sizes, possession limits, and closed seasons, or the coastwide management measures to constrain recreational landings to the harvest limit. The state conservation equivalency provision was utilized in the summer flounder recreational fishery in 1999. However, a loophole was discovered during the implementation of the interim rule. By allowing states to choose between conservation equivalent measures and coastwide measures, states had the ability to select management measures that did not achieve the required percentage reduction in harvest. In 1999, a 41–percent reduction in recreational summer flounder landings was required coastwide. Each state had the option to select either the coastwide measures or state-specific measures to achieve the reduction. The coastwide measures achieved the 41–percent reduction overall, but resulted in reductions in individual states that ranged from 11 percent to 39 percent. Some states selected the coastwide measures because they actually impacted their fishery by less than 41 percent. Therefore, by allowing states to choose between coastwide and state specific measures, the overall required 41–percent reduction was not achieved.

On April 28, 1999, NMFS approved a framework adjustment process as part of Amendment 12 to the FMP, which allows the Council to use this process to change the annual specification quota setting process and recreational management measures. This framework adjustment specifies that the Council and Commission will decide on an annual basis whether to recommend a coastwide recreational harvest limit or require states to implement summer flounder recreational management measures that achieve equivalent conservation. To eliminate the loophole revealed during the implementation of the interim rule, states will not be authorized to choose between the coastwide and state equivalency measures but will all manage on either a coastwide basis or on a state equivalent basis. If coastwide measures are recommended, NMFS will publish proposed coastwide measures as currently specified in the FMP, solicit public comment and then publish final coastwide measures. If conservation equivalent measures are recommended, NMFS will publish a proposed rule that will include: (1) the overall percentage adjustment required in each state to achieve the recreational harvest limit; (2) a recommendation to implement state conservation equivalent measures and precautionary default measures; and (3) coastwide measures.

Precautionary default measures are measures that would achieve at least the overall required adjustment in landings for each state. For example, in 1999 a 41–percent reduction in landings was required. An appropriate 1999 precautionary default measure would have been a one-fish possession limit and a 15.5–inch minimum size limit. These measures would have achieved at least a 41–percent reduction in each state, assuming the regulations achieve 85–percent effectiveness. Precautionary default measures will be recommended at the joint Commission/Council meeting when conservation equivalency measures are chosen.

Under conservation equivalency, states will not be allowed to implement measures by method of fishing (mode) or area within a state unless the proportional standard error (PSE) derived from the Marine Recreational Statistical Survey landings, estimated by mode or area, is less than 30 percent for each respective state. PSE expresses the standard error of a landings estimate as a percentage of that estimate, and is a measure of the precision of the landings estimate. The 30–percent PSE threshold was specified by the Council and Commission.

Each state will use state-specific tables created by the Committee to develop and propose equivalent management measures to achieve the recreational harvest limit for the summer flounder fishery. Tables will be adjusted to account for effectiveness of the regulations based on review of prior years' data. Using these tables, each state will develop a suite of management measures composed of possession limits, minimum size restrictions, and seasonal restrictions to achieve landings consistent with the recreational harvest limit for the summer flounder fishery.

States will submit their proposed suite of recreational measures to the Commission for review. Any state that does not submit a proposal or submits a proposal that is determined to not achieve the adjustment target will be assigned the precautionary default measures. At the discretion of the Commission, states that have been assigned the precautionary default measures may be authorized to resubmit revised management measures, and if those are consistent with the adjustment target, the state could implement them in place of the precautionary default measures.

During the proposed rule comment period, the Commission will complete its review of state proposals and notify NMFS of its findings. Although the Council and Commission may recommend state conservation equivalency to NMFS, NMFS has the responsibility of ensuring that the measures will achieve the harvest limit.

Therefore, NMFS retains the final authority to approve either coastwide or state equivalency and will publish its determination in the final rule for recreational measures. Should NMFS approve state conservation equivalent measures, NMFS will publish in the final rule the state conservation equivalent and/or precautionary default measures for each respective state for the exclusive economic zone (EEZ). For states with approved conservation equivalent measures, NMFS will also announce as part of the final recreational measures that it is waiving the permit condition found at § 648.4(b), which requires federally permitted vessels to comply with the more restrictive management measures when state and Federal measures differ. In the case of states that are initially assigned precautionary default measures, but subsequently receive Commission approval of customized state measures, NMFS will publish a notification in the **Federal Register** announcing the waiver of the permit condition at § 648.4(b).

Economic Impact Analysis

The potential impacts that may result from this action have been considered in the EA and RIR. This action proposes a management system that will provide the Council and Commission the flexibility to recommend cooperatively either coastwide management measures or customized state summer flounder recreational management to achieve the recreational summer flounder harvest limit, rather than relying solely on coastwide management measures. Should the Council and Commission choose to allow states to customize summer flounder recreational management measures, states will be able to set management measures that will maintain traditional fishing practices within each respective state. This action is not, therefore, expected to result in negative impacts to charter/party vessels participating in the recreational summer flounder fishery compared to the no-action alternative of solely relying on coastwide management measures. Other alternatives were considered, including conservation equivalency by sub-regions, conservation equivalency by state using sub-regional data, conservation equivalency as established through the interim action, and state by state allocations for recreational fishing. While several of these would also provide greater flexibility than the current measures in the FMP, none were identified as minimizing impacts in comparison to the adopted measures.

Abbreviated Rulemaking

NMFS is making these revisions to the regulations under the framework abbreviated rulemaking procedure codified at 50 CFR part 648, subpart G. This procedure requires the Council, when making specifically allowed adjustments to the regulations, to develop and analyze the actions over the span of at least two Council meetings. The Council must provide the public with advance notice of both the proposals and the analysis, and with an opportunity to comment on them at the first meeting and prior to and at the second Council meeting. Upon review of the analysis and public comment, the Council may recommend to the Administrator, Northeast Region, NMFS, that the measures be published as a final rule if certain conditions are met. NMFS may publish the measures as a final rule, or as a proposed rule if additional public comment is necessary.

The public was provided the opportunity to comment on the management measures contained in Framework 2 at the Council's December 12–14, 2000, and February 6–8, 2001, meetings. Documents summarizing the Council's proposed action and the analysis of biological and economic impacts of this and alternative actions were available for public review at the December 12–14, 2000, meeting and prior to the final February 8, 2001, meeting, as is required under the framework adjustment procedures. Written comments could be submitted up to and during the final meeting. No comments were received.

Classification

The Regional Administrator determined that this framework adjustment to the FMP is necessary for the conservation and management of the summer flounder fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553 *et seq.*, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable. Nevertheless, the impacts of this action on affected small entities were considered in the RIR contained in the supporting analyses for Framework 2. The impacts are described in the **SUPPLEMENTARY INFORMATION** section of the preamble to this final rule.

The Assistant Administrator for Fisheries, NOAA (AA), finds that, because public meetings held by the Council to discuss the management system implemented by this final rule provided adequate prior notice and opportunity for public comment, further notice and opportunity to comment on this final rule is unnecessary. Therefore, the AA, under 5 U.S.C. 553 (b)(B), finds good cause exists to waive prior notice and additional opportunity for public comment.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 29, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.4, paragraph (a)(3)(iii) is revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(3) * * *

(iii) *Exemption permits.* Owners of summer flounder vessels seeking an exemption from the minimum mesh requirement under the provisions of § 648.104 (b)(1) must apply to the Regional Administrator under paragraph (c) of this section at least 7 days prior to the date they wish the permit to become effective. The applicant must mark ''Exemption Permit Request'' on the permit application at the top. A permit issued under this paragraph (a)(3)(iii) does not meet the requirements of paragraph (a)(3)(i) of this section, but is subject to the other provisions of this section. Persons issued an exemption permit must surrender it to the Regional Administrator at least 1 day prior to the date they wish to fish not subject to the exemption. The Regional Administrator may impose temporary additional procedural requirements by publishing a notification in the **Federal Register**. If a summer flounder charter or party requirement of this part differs from a summer flounder charter or party management measure required by a state, any vessel owners or operators fishing under the terms of a summer flounder charter/party vessel permit in

the EEZ for summer flounder must comply with the more restrictive requirement while fishing in state waters, unless otherwise authorized under § 648.107.

* * * * *

3. Section 648.100 is revised to read as follows:

§ 648.100 Catch quotas and other restrictions.

(a) *Annual review.* The Summer Flounder Monitoring Committee shall review the following data on or before August 15 of each year to determine the allowable levels of fishing and other restrictions necessary to achieve, with at least a 50–percent probability of success, a fishing mortality rate (F) that produces the maximum yield per recruit (Fmax): Commercial and recreational catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling and winter trawl survey data or, if sea sampling data are unavailable, length frequency information from the winter trawl survey and mesh selectivity analyses; impact of gear other than otter trawls on the mortality of summer flounder; and any other relevant information.

(b) *Recommended measures.* Based on this review, the Summer Flounder Monitoring Committee shall recommend to the Demersal Species Committee of the MAFMC and the Commission the following measures to ensure, with at least a 50–percent probability of success, that the F specified in paragraph (a) of this section will not be exceeded:

(1) Commercial quota set from a range of 0 to the maximum allowed to achieve the specified F.

(2) Commercial minimum fish size.

(3) Minimum mesh size.

(4) Recreational possession limit set from a range of 0 to 15 summer flounder to achieve the specified F.

(5) Recreational minimum fish size.

(6) Recreational season.

(7) Recreational state conservation equivalent and precautionary default measures utilizing possession limits, minimum fish sizes, and/or seasons.

(8) Restrictions on gear other than otter trawls.

(9) Adjustments to the exempted area boundary and season specified in § 648.104 (b)(1) by 30–minute intervals of latitude and longitude and 2–week intervals, respectively, based on data specified in paragraph (a) of this section to prevent discarding of sublegal sized summer flounder in excess of 10 percent, by weight.

(c) *Annual fishing measures.* The Demersal Species Committee shall review the recommendations of the Summer Flounder Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall recommend to the MAFMC measures necessary to ensure, with at least a 50–percent probability of success, that the applicable specified F will not be exceeded. The MAFMC shall review these recommendations and, based on the recommendations and any public comment, recommend to the Regional Administrator measures necessary to ensure, with at least a 50–percent probability of success, that the applicable specified F will not be exceeded. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Administrator shall review these recommendations and any recommendations of the Commission.

(d) *Commercial measures.* After such review, the Regional Administrator will publish a proposed rule in the **Federal Register** on or about October 15 to implement a coastwide commercial quota and recreational harvest limit and additional management measures for the commercial fishery. After considering public comment, the Regional Administrator will publish a final rule in the Federal Register to implement the measures necessary to ensure, with at least a 50–percent probability of success, that the applicable specified F will not be exceeded.

(1) *Distribution of annual quota.* (i) The annual commercial quota will be distributed to the states, based upon the following percentages:

ANNUAL COMMERCIAL QUOTA SHARES

State	Share (percent)
Maine	0.04756
New Hampshire	0.00046
Massachusetts	6.82046
Rhode Island	15.68298
Connecticut	2.25708
New York	7.64699
New Jersey	16.72499
Delaware	0.01779
Maryland	2.03910
Virginia	21.31676
North Carolina	27.44584

(ii) All summer flounder landed for sale in a state shall be applied against that state's annual commercial quota, regardless of where the summer flounder were harvested. Any overages of the commercial quota landed in any state will be deducted from that state's annual quota for the following year.

(2) *Quota transfers and combinations.* Any state implementing a state commercial quota for summer flounder may request approval from the Regional Administrator to transfer part or all of its annual quota to one or more states. Two or more states implementing a state commercial quota for summer flounder may request approval from the Regional Administrator to combine their quotas, or part of their quotas, into an overall regional quota. Requests for transfer or combination of commercial quotas for summer flounder must be made by individual or joint letter(s) signed by the principal state official with marine fishery management responsibility and expertise, or his/her previously named designee, for each state involved. The letter(s) must certify that all pertinent state requirements have been met and identify the states involved and the amount of quota to be transferred or combined.

(3) Within 10 working days following the receipt of the letter(s) from the states involved, the Regional Administrator shall notify the appropriate state officials of the disposition of the request. In evaluating requests to transfer a quota or combine quotas, the Regional Administrator shall consider whether:

(i) The transfer or combination would preclude the overall annual quota from being fully harvested.

(ii) The transfer addresses an unforeseen variation or contingency in the fishery.

(iii) The transfer is consistent with the objectives of the Summer Flounder FMP and Magnuson-Stevens Act.

(4) The transfer of quota or the combination of quotas will be valid only for the calendar year for which the request was made and will be effective upon the filing by NMFS of a notice of the approval of the transfer or combination with the Office of the Federal Register.

(5) A state may not submit a request to transfer quota or combine quotas if a request to which it is party is pending before the Regional Administrator. A state may submit a new request when it receives notice that the Regional Administrator has disapproved the previous request or when notice of the approval of the transfer or combination has been filed at the Office of the Federal Register.

(6) If there is a quota overage among states involved in the combination of quotas at the end of the fishing year, the

overage will be deducted from the following year's quota for each of the states involved in the combined quota. The deduction will be proportional, based on each state's relative share of the combined quota for the previous year. A transfer of quota or combination of quotas does not alter any state's percentage share of the overall quota specified in paragraph (d)(1)(i) of this section.

(e) *Recreational measures.* The Demersal Species Committee shall review the recommendations of the Summer Flounder Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall recommend to the MAFMC and Commission measures necessary to ensure, with at least a 50–percent probability of success, that the applicable specified F will not be exceeded. The MAFMC shall review these recommendations and, based on the recommendations and any public comment, recommend to the Regional Administrator measures necessary to ensure, with at least a 50–percent probability of success, that the applicable specified F will not be exceeded. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Council and the Commission will recommend that the Regional Administrator implement either:

(1) *Coastwide measures.* Annual coastwide management measures that constrain the recreational summer flounder fishery to the recreational harvest limit, or

(2) *Conservation equivalent measures.* States may implement different combinations of minimum fish sizes, possession limits, and closed seasons that achieve equivalent conservation as the coastwide measures established under paragraph (e)(1) of this section. Each state may implement measures by mode or area only if the proportional standard error of Marine Recreational Statistical Survey landings estimates by mode or area for that state are less than 30 percent.

(i) After review of the recommendations, the Regional Administrator will publish a proposed rule in the **Federal Register** on or about March 1 to implement the overall percent adjustment in recreational landings required for the fishing year, the Council and Commission's recommendation concerning state conservation equivalency, the precautionary default measures, and coastwide measures.

(ii) During the public comment period on the proposed rule, the Commission will review state conservation equivalency proposals and determine whether or not they achieve the necessary adjustment to recreational landings. The Commission will provide the Regional Administrator with the individual state conservation measures for the approved state proposals, and in the case of disapproved state proposals, the precautionary default measures.

(iii) The Commission may allow states assigned the precautionary default measures to resubmit revised management measures. The Commission will detail the procedures by which the state can develop alternate measures. The Commission will notify the Regional Administrator of any resubmitted state proposals approved subsequent to publication of the final rule and the Regional Administrator will publish a notice in the **Federal Register** to notify the public.

(iv) After considering public comment, the Regional Administrator will publish a final rule in the **Federal Register** to implement either the state specific conservation equivalency measures or coastwide measures to ensure that the applicable specified target is not exceeded.

4. Section 648.102 is revised to read as follows:

§ 648.102 Time restrictions.

Unless otherwise specified in § 648.107, vessels that are not eligible for a moratorium permit under § 648.4 (a)(3) and fishermen subject to the possession limit may fish for summer flounder from January 1 through December 31. This time period may be adjusted pursuant to the procedures in § 648.100.

5. In § 648.103, paragraph (b) is revised to read as follows:

§ 648.103 Minimum fish sizes.

* * * * *

(b) Unless otherwise specified in § 648.107, the minimum size for summer flounder is 15 inches (38 cm) TL for all vessels that do not qualify for a moratorium permit, and charter boats holding a moratorium permit if fishing with passengers for hire or carrying more than three crew members, or party boats holding a moratorium permit if fishing with more than five crew members.

* * * * *

6. In § 648.105, the first sentence of paragraph (a) is revised to read as follows:

§ 648.105 Possession restrictions.

(a) Unless otherwise specified in § 648.107, no person shall possess more than eight summer flounder in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a summer flounder moratorium permit or is issued a summer flounder dealer permit. * * *

* * * * *

7. Section 648.107 is revised to read as follows:

§ 648.107 Conservation equivalent measures for the recreational summer flounder fishery.

No conservation equivalent measures are specified.

[FR Doc. 01–17095 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 000501119–0119–01; I.D. 061201A]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustment for the Commercial Fishery from U.S.-Canada Border to Cape Falcon, OR

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS announces modification of the landing requirements for the commercial salmon fishery (except coho) in the area from the U.S.-Canada Border to Cape Falcon, OR, to allow salmon caught in the area to be landed in Oregon. The modified provision requires that vessels land and deliver fish within the area (U.S.-Canada Border to Cape Falcon), or within Oregon ports south of Cape Falcon, and within 24 hours of any closure of this fishery. NMFS also describes the Oregon State reporting and landing requirements for salmon caught in the area. This action is necessary to provide flexibility to Oregon fishermen, while implementing the 2001 annual management measures for ocean salmon fisheries.

DATES: Inseason adjustment effective 2400 hours local time, May 4, 2001. Comments will be accepted through July 26, 2001.

ADDRESSES: Comments on this action may be mailed to Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; fax 206–526–6376; or Rebecca Lent, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132; fax 562–980–4018. Comments will not be accepted if submitted via e-mail or the Internet. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR 660.409(b)(1)(v) state that the Regional Administrator, in consultation with the Chairman of the Pacific Fishery Management Council (Council) and the appropriate State Directors, may, under the flexible inseason management provisions, modify boundaries, including landing boundaries.

In the 2001 annual management measures for ocean salmon fisheries (66 FR 23185, May 8, 2001), NMFS announced that the area from the U.S.-Canada Border to Cape Falcon would open May 1 through the earlier of June 30 or a 17,000-chinook guideline. The 17,000-chinook guideline includes a subarea guideline of 12,000 chinook for the subarea between the U.S.-Canada border and the Queets River. Vessels were required to land and deliver their fish within the area (U.S.-Canada Border to Cape Falcon) or in adjacent areas that are closed to all commercial non-Indian salmon fishing, and within 24 hours of any closure of this fishery. In addition, Washington State regulations required that fishermen fishing within the U.S.-Canada Border to Queets River subarea, and intending to land their catch outside of this subarea, notify the Washington Department of Fish and Wildlife (WDFW) before they leave the subarea. However, by restricting fishermen fishing in the area (U.S.-Canada Border to Cape Falcon) to land and deliver their catch within the area, or in adjacent areas closed to all commercial non-Indian salmon fishing, the 2001 annual management measures for ocean salmon fisheries inadvertently prohibited salmon caught north of Cape Falcon from being landed in Oregon. There are no qualifying Oregon ports for fishermen fishing north of Cape Falcon. This situation came to light after the annual management measures were sent by the Council to NMFS for approval after the April 2001 meeting. Therefore, the State of Oregon requested an inseason modification to the 2001 annual management measures to modify the area landing requirements.

The Regional Administrator consulted with representatives of the Council, the Oregon Department of Fish and Wildlife (ODFW), and WDFW regarding this adjustment on May 3, 2001. Oregon recommended that the management measures for the north of Cape Falcon area be changed to allow fish to be landed in ports south of Cape Falcon. The State of Oregon has implemented landing notification requirements to ensure that proper catch accounting (accounting for the number of fish caught) is done for the area catch.

In certain quota fisheries, it is necessary to restrict landing to certain areas in order to ensure accurate and timely catch accounting. This was the reason for the initial landing restriction. However, NMFS and the states have realized that the existing language was particularly restrictive on fishermen who want to land south of Cape Falcon, and the catch accounting problem can be solved by the State of Oregon. Oregon has now implemented a reporting system for catch from north of Cape Falcon, which will allow accurate and timely catch accounting. Therefore, NMFS is implementing this modification of the annual management measures.

The adjusted regulatory language has been approved by NMFS and reads as follows:

U.S.-Canada Border to Cape Falcon

May 1 through earlier of June 30 or 17,000-chinook guideline (see C.7.a of the 2001 annual salmon management measures). All salmon except coho. No more than 4 spreads per line beginning June 1 (see gear restrictions in C.2 of the 2001 annual salmon management measures). Cape Flattery and Columbia Control Zones closed (C.4.a and C.4.b of the 2001 annual salmon management measures). The 17,000-chinook guideline includes a subarea guideline of 12,000 chinook for the area between the U.S.-Canada border and the Queets River. Vessels must land and deliver their fish within the area (U.S.-Canada Border to Cape Falcon), or in Oregon ports south of Cape Falcon, and within 24 hours of any closure of this fishery. Washington State regulations require that fishermen fishing within the U.S.-Canada Border to Queets River subarea and intending to land their catch outside of this subarea notify WDFW before they leave the subarea. Oregon State regulations require that vessels intending to land their catch in an Oregon port south of Cape Falcon must notify ODFW (541–867–0300 ext. 252) before leaving the area to report the name of the vessel, the intended port of landing, the estimated time of arrival, and the catch aboard. Inseason actions may modify harvest guidelines in later fisheries to achieve or prevent exceeding the overall allowable troll harvest impacts (see C.7.a of the 2001 annual salmon management measures).

As provided by the inseason notification procedures at 50 CFR 660.411, actual notice to fishermen of these actions was given by telephone hotline number 206–526–6667 or 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

Because of the need for immediate action in order to provide flexibility to the fishermen, NMFS has determined that good cause exists for this document to be issued without affording a prior opportunity for public comment. This document does not apply to other fisheries that may be operating in other areas.

Classification

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 5, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–17365 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 070601A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to

prevent exceeding the 2001 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 8, 2001, through 2400 hrs, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2001 TAC of Pacific ocean perch for the Eastern Aleutian District was established as 2,683 metric tons (mt) by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2001 TAC for Pacific ocean perch in the Eastern Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,433 mt, and is setting aside the remaining 250 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian District of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to avoid exceeding the 2001 TAC of Pacific ocean perch for the Eastern Aleutian District of the BSAI constitutes good cause to waive the requirement to provide prior notice opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to avoid exceeding the 2001 TAC of Pacific ocean perch for the Eastern Aleutian District of the BSAI constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 6, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries,National Marine Fisheries Service.

[FR Doc. 01–17347 Filed 7–6–01; 4:35 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 133
Wednesday, July 11, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–04–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Models 1900, 1900C (C–12J), and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 95–02–18, which currently requires repetitive inspections of the engine truss assemblies for cracks on certain Raytheon Aircraft Company (Raytheon) Beech Models 1900, 1900C (C–12J), and 1900D airplanes, repair or replacement of any cracked engine truss assembly, and installation of reinforcement doublers. This proposed AD is the result of continued reports of fatigue cracks found on engine trusses on airplanes in compliance with AD 95–02–18. The proposed AD would require engine truss assembly replacement, periodic inspections and replacements, and the eventual incorporation of a cowling support installation kit as terminating action. The repetitive inspections of AD 95–02–18 would be retained until mandatory engine truss assembly replacement. The actions specified by the proposed AD are intended to detect and correct cracked engine truss assemblies, which could result in failure of the engine truss assembly and consequent loss of airplane control.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this rule on or before August 30, 2001.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–04–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 625–7043 or (316) 676–4556. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. David L. Ostrodka, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4129; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on the Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES.** The FAA will consider all comments received on or before the closing date. We may amend the proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of the Proposed AD I Should Pay Attention To?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of the proposed AD.

We are re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clear, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.plainlanguage.gov.

How Can I Be Sure FAA Receives My Comment?

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2001–CE–04–AD.'' We will date stamp and mail the postcard back to you.

Discussion

Has FAA Taken Any Action on the Engine Truss Assemblies of Raytheon Beech Models 1900, 1900C (C–12J), and 1900D Airplanes To This Point?

Continued problems with fatigue cracking of the engine truss assemblies on Raytheon Beech Models 1900, 1900C (C–12J), and 1900D airplanes caused FAA to issue AD 95–02–18, Amendment 39–9136 (60 FR 6652, February 3, 1995). This AD currently requires the following:

—Repetitive inspections of the engine truss assemblies for cracks;

—Repair or replacement of any cracked engine truss assembly; and

—Installation of reinforcement doublers.

What Has Happened Since AD 95–02–18 To Initiate This Action?

The FAA continues to receive reports of engine truss fatigue cracks on Raytheon Beech Models 1900, 1900C (C–12J), and 1900D airplanes. The reports reference airplanes that are in compliance with AD 95–02–18.

The fatigue cracks are developing as a result of operational stresses in joints, welded bracketry, and linoil holes sealed by drive screws.

Relevant Service Information

Has the Manufacturer Issued Service Information and What Are the Provisions of This Information?

Raytheon has issued the following service bulletins to address this subject:

Service Bulletin	Provisions
Raytheon Aircraft Mandatory Service Bulletin SB 2255, Revision 10, Revised, June 1999.	Includes instructions for inspecting the part number (P/N) 114–910025–1, 118–910025–1, 118–910025–37, 118–910025–121, and 129–910032–79 engine truss assemblies for fatigue cracks. Also includes procedures for replacing the engine truss assembly with a P/N 129–910047 engine truss assembly.
Raytheon Aircraft Mandatory Service Bulletin SB 71–3144, Revision 1, Revised: April 1999.	Includes procedures for engine truss assembly inspection and rework, including: —inspection of the linoil holes and replacement of the drive screws; —incorporation of a cowling support installation kit as terminating action for the inspections.
.	
Raytheon Aircraft Mandatory Service Bulletin SB 71–3024, Issued: September 1997.	Includes procedures for obtaining and installing a placard that specifies the part number of the engine truss assembly.

The FAA's Determination and Explanation of the Provisions of the Proposed AD What Has FAA Decided?

After examining the circumstances and reviewing all available information related to the information described above, we have determined that:

—The unsafe condition referenced in this document exists or could develop on other Raytheon Beech Models 1900, 1900C (C–12J), and 1900D airplanes of the same type design;

—The inspections specified in the above-referenced service information should be accomplished on the affected airplanes; and

—AD action should be taken in order to detect and correct cracked engine truss assemblies, which could result in failure of the engine truss assembly and consequent loss of airplane control.

What Would the Proposed AD Require?

This proposed AD would supersede AD 95–02–18 with a new AD that would require engine truss assembly replacement, periodic inspections and replacements, and the eventual incorporation of a cowling support installation kit as terminating action. The repetitive inspections of AD 95–02–18 would be retained until mandatory engine truss assembly replacement.

Accomplishment of the proposed actions would be required in accordance with the previously-referenced service information.

Cost Impact

How Many Airplanes Would the Proposed AD Impact?

We estimate that the proposed AD affects up to 236 airplanes in the U.S. registry.

What Would Be the Cost Impact of the Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the proposed actions:

	Engine truss replacement	Drive screw inspection and replacement	Cowling support kit installation	Placard installation
Number of Airplanes Affected.	12	236	210	234
Cost Per Airplane: Workhours + Parts Cost.	34 workhours × $60 per hour + $6,000 (average) for parts = $8,040 per airplane.	4 workhours × $60 per hour + $12 for parts = $252 per airplane.	6 workhours × $60 per hour + $35 for parts = $395 per airplane.	1 workhour × $60 per hour + $5 for parts = $65 per airplane.
Fleet Cost: Cost Per Airplane × Number of airplanes.	$8,040 × 12 airplanes = $96,480.	$252 × 236 airplanes = $59,472.	$395 × 210 airplanes = $82,950.	$65 × 234 airplanes = $15,210.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing Airworthiness Directive (AD) AD 95–02–18, Amendment 39–9136 (60 FR 6652, February 3, 1995), and by adding a new AD to read as follows:

Raytheon Aircraft Company (Beech Aircraft Corporation formerly held Type Certificate (TC) No. A–24CE): Docket No. 2001–CE–04–AD; Supersedes AD 95–02–18, Amendment 39–9136.

(a) *What airplanes are affected by this AD?* This AD affects the following model and serial number airplanes that are certificated in any category:

Model	Serial numbers
Beech Model 1900	UA–2 and UA–3
Beech Model 1900C	UB–1 through UB–74 and UC–1 through UC–174
Beech Model 1900C (C–12J).	UD–1 through UD–6
Beech Model 1900D	UE–1 through UE–302

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by the AD are intended to detect and correct cracked engine truss assemblies, which could result in failure of the engine truss assembly and consequent loss of airplane control.

(d) *What actions must I accomplish to address this problem on the affected airplanes?* To address this problem, accomplish the following:

Action	Compliance	Procedures
(1) If you do not have a part number (P/N) 129–910047–1, 129–910047–13, or 129–910047–17 engine truss assembly (or FAA-approved equivalent P/N) installed, accomplish the following: (i) Inspect the engine truss assembly for cracks and replace any cracked truss with a P/N truss specified in paragraph (d)(1)(ii) of this AD; and (ii) Replace the engine truss assembly with a P/N 129–910047–1, 129–910047–13, or 129–910047–17 assembly (or FAA-approved equivalent P/N).	Inspect in accordance with the schedule outlined in the Appendix to this AD (taken from AD 95–02–18, as specified in Raytheon Aircraft Mandatory Service Bulletin No. 2255, Revision 10, Revised, June, 1999). Replace within the next 100 hours time-in-service (TIS) after the effective date of this AD if the truss is not cracked and prior to further flight if the truss is cracked.	Inspect and replace in accordance with the instructions in Raytheon Aircraft Mandatory Service Bulletin No. 2255. Revision 10, Revised, June 1999. Accomplishing the inspection (only) using a previous revision to this service bulletin is acceptable.
(2) For airplanes equipped with a P/N 129–910047–1 or 129–910047–13 engine truss assembly (or FAA-approved equivalent P/N), inspect for linoil hole mislocation and cracks in Area A as depicted in the referenced service information and replace the engine truss assembly if any mislocated hole or crack is found during any inspection.	Inspect upon accumulating 100 hours TIS on the engine truss assembly or within 25 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished, and thereafter at intervals not to exceed 100 hours TIS. Accomplish any necessary engine truss assembly replacement prior to further flight where any mislocated hole or crack is found.	Accomplish inspections and replacements in accordance with Part I of the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Aircraft Mandatory Service Bulletin SB 71–3144, Revision 1, Revised: April, 1999.
(3) For airplanes equipped with a P/N 129–910047–1 or 129–910047–13 engine truss assembly (or FAA-approved equivalent P/N), accomplish the following: (i) Inspect the engine cowling support bracket for cracks and rework any cracked engine cowling support bracket; and (ii) Install Kit No. 129–9017–1 reinforcements on the engine cowling support bracket. The inspections required by paragraph (d)(3)(i) of this AD are no longer necessary when Kit No. 129–9017–1 is incorporated.	Inspect upon accumulating 200 hours TIS on the engine truss assembly or within 25 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished, and thereafter at intervals not to exceed 200 hours TIS. Accomplish any necessary engine cowling support rework prior to further flight where any cracked bracket is found. Install the engine cowling support bracket reinforcements upon accumulating 1,200 hours TIS on the engine truss assembly or within the next 100 hours TIS after the effective date of this AD, whichever occurs later.	Accomplish inspections, repairs, and installations in accordance with Part III of the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Aircraft Mandatory Service Bulletin SB 71–3144, Revision 1, Revised: April, 1999.
(4) For airplanes equipped with a P/N 129–910047–1 or 129–910047–13 engine truss assembly (or FAA-approved equivalent P/N), replace all remaining linoil drive screws (those not in Area A). The inspections required by paragraph (d)(2) of this AD are no longer required when these screws are replaced.	Upon accumulating 8,000 hours TIS on the engine truss assembly or at the next engine truss assembly removal, whichever occurs later.	Accomplish these replacements in accordance with Part II of the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Aircraft Mandatory Service Bulletin SB 71–3144, Revision 1, Revised: April, 1999.
(5) For airplanes equipped with a P/N 129–910047–1 or 129–910047–13 engine truss assembly (or FAA-approved equivalent P/N), install a P/N 129–910047–15 truss identification placard on the engine truss assembly.	Within 12 months after the effective date of this AD or upon installation of a P/N 129–910047–1 or 129–910047–13 engine truss assembly, whichever occurs later.	Accomplish this installation in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Aircraft Service Bulletin SB.71–3024, Issued: September, 1997.
(6) Do not install, on any affected airplane, an engine truss assembly that is not P/N 129–910047–1, 129–910047–13, or 129–910047–17 (or FAA-approved equivalent P/N).	As of the effective date of this AD	Not Applicable.

(e) *Can I comply with this AD in any other way?*

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

(2) Alternative methods of compliance approved in accordance with AD 95–02–18, which is superseded by this AD, are not approved as alternative methods of compliance with this AD.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mr. David L. Ostrodka, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4129; facsimile: (316) 946–4407.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(i) *Does this AD action affect any existing AD actions?* This amendment supersedes AD 95–02–18, Amendment 39–9136.

Appendix to Docket No. 2001–CE–04–AD

The following is the compliance schedules for the inspections required in this AD. These are duplicated from AD 95–02–18, Amendment 39–9136:

1. For all affected airplanes having engine truss P/N 129–910032–79 installed, initially and repetitively inspect the engine truss for cracks at the weld joints in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB 2255, Revision VI, dated August 1994, at the times specified in the following chart:

Models	Area specified in figure 1 of beech SB No. 2255, Rev. VI	Initial inspection	Repetitive inspections
1900 and 1900C	A	Upon accumulating 1,400 hours TIS*.	every 100 hours TIS
1900 and 1900C	B and C	Upon accumulating 3,200 hours TIS*.	every 100 hours TIS
1900D	A	Upon accumulating 3,200 hours TIS*.	every 450 hours TIS
1900D	B and C	Upon accumulating 3,200 hours TIS*.	every 3,000 hours TIS

*or within the next 100 hours TIS after March 25, 1995 (the effective date of AD 95–02–18), whichever occurs later.

2. For all Models 1900 and 1900C airplanes having engine truss P/N 118–9100–25–37, P/N 118–910025–121, P/N 114–910025–1 or P/N 118–910025–1, initially and repetitively inspect the engine truss for cracks at the weld joints in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin (SB) 2255, Revision VI, dated August 1994, at the times specified in the following chart:

Area specified in figure 1 of beech SB N. 2255, Rev. VI	Initial inspection	Repetitive inspections
A	Upon accumulating 1,400 hours TIS*	every 100 hours TIS
B	Upon accumulating 1,400 hours TIS*	every 600 hours TIS
C	Upon accumulating 1,400 hours TIS*	every 3,000 hours TIS

*or within the next 100 hours TIS after March 25, 1995 (the effective date of AD 95–02–18), whichever occurs later.

Issued in Kansas City, Missouri, on July 3, 2001.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–17166 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 41

RIN 3038–AB83

Proposed Regulation To Restrict Dual Trading in Security Futures Products

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed regulation.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is proposing Regulation 41.27 that would restrict dual trading by floor brokers in security futures products. Under the proposed regulation, the dual trading restriction would affect floor brokers that trade security futures products through open outcry on the trading floor of a designated contract market (''DCM'') or registered derivatives transaction execution facility (''DTF''). The regulation would provide for certain exceptions to the restriction, including provisions for the correction of errors, customer consent, spread transactions, market emergencies, and unique or special characteristics of an agreement, contract, or transaction, or of the DCM or DTF.

DATES: Comments must be received by August 10, 2001.

ADDRESSES: Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC

20581, Attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418–5521 or, by e-mail to secretary@cftc.gov. Reference should be made to ''Restriction of Dual Trading in Security Futures Products by Floor Brokers.''

FOR FURTHER INFORMATION CONTACT: Alan L. Seifert, Deputy Director, Division of Trading and Markets, Rachel Berdansky, Special Counsel, or Amy Fiordalisi, Attorney, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5260. E-mail: *Aseifert@cftc.gov, Rberdansky@cftc.gov*, *Afiordalisi@cftc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On December 15, 2000, Congress approved the Commodity Futures Modernization Act of 2000 (''CFMA''), which was signed by the President and became effective on December 21, 2000. Among other things, the CFMA, which substantially amended the Commodity Exchange Act (''Act''), establishes two categories of markets subject to Commission regulatory oversight, DCMs and DTFs.[1] In addition, Title II of the CFMA repeals the longstanding ban on single stock futures and directs the Commission and the Securities and Exchange Commission (''SEC'') to implement a joint regulatory framework for security futures products.

Section 251(c) of the CFMA amends Section 4j of the Act to require that the Commission issue regulations to restrict dual trading in security futures products on DCMs and DTFs. Section 4j(a), as amended, also provides the Commission with the discretion to permit exceptions to a dual trading restriction that are necessary to ensure fairness and orderly trading in security futures product markets.[2] Section 2(a)(D)(i) of the Act, as amended, sets forth listing standards for security futures products traded on a DCM or DTF. Section 2(a)(D)(i)(VI) requires that security futures products be subject to the dual trading restriction of Section 4j of the Act or Section 11(a) of the Securities Exchange Act of 1934 (''1934 Act'') and the regulations promulgated thereunder, respectively.[3]

II. Discussion of Proposed Regulation 41.27

A. ''Customer''

Proposed Regulation 41.27 would restrict dual trading of security futures products in accordance with the statutory mandate of Section 4j(a), as amended by Section 251(c) of the CFMA. Proposed Regulation 41.27(a)(4) would define ''customer'' to mean an account owner for which a trade is executed other than an account in which a floor broker's ownership interest or share of trading profits is ten percent or more; an account for which a floor broker has discretion; an account controlled by a person with whom a floor broker has a relationship through membership in a broker association; a house account for a floor broker's clearing member; or an account for another member present on the floor of a DCM or DTF or an account controlled by such other member.[4] The Commission requests comment as to whether the accounts of all clearing members and the accounts of members not present on the floor of a DCM or DTF should be considered non-customer accounts and included within proposed Regulation 41.27(a)(4). In this regard, commenters should consider whether clearing members other than the floor broker's own clearing member and members not present on the floor of a DCM or DTF are in a better position to protect themselves against potential abuse of their orders by floor brokers than other customers.[5]

B. ''Dual Trading''

Proposed Regulation 41.27(a)(6) would define ''dual trading'' as the ''execution of customer orders by a floor broker through open outcry during the same trading session in which the floor broker executes, directly or indirectly, either through open outcry or through a trading system that electronically matches bids and offers, a transaction for the same security futures product on the same designated contract market or registered derivatives transaction execution facility for an account'' of a non-customer.[6] For this purpose, non-customer accounts would include those categories of accounts set forth in proposed Regulation 41.27(a)(4)(i)–(v).

The Commission's proposed dual trading definition refers to a floor broker executing ''directly or indirectly'' a transaction for a non-customer account. The reference to ''indirectly'' executing a transaction is intended to prevent a floor broker from executing a customer order and during the same trading session initiating and passing an order for a non-customer account identified in proposed Regulation 41.27(a)(4)(i)–(v) to another broker for execution.

Under the plain language of Section 4j of the Act, the dual trading restriction would not apply to a DCM or DTF that trades security futures products solely

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[1] Appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000). Prior to its recent amendment, the Act referred to ''designated contract markets'' as Commission-approved products traded on a board of trade. The Act, as amended, however, uses the term ''designated contract market'' to refer to the approved or licensed market on which futures contracts and commodity options are traded. Proposed Regulation 41.27 refers to DCMs in this sense.

[2] Section 4j of the Act, as amended, is different in scope than its predecessor and the Commission Regulation promulgated thereunder, Commission Regulation 155.5, which restricted dual trading in any contract market that exceeded certain volume thresholds unless an exchange requested, and the Commission granted, a dual trading exemption. As part of this rulemaking, the Commission also is proposing to remove Commission Regulation 155.5.

[3] With certain enumerated exceptions, Section 11(a)(1) of the 1934 Act and SEC Rule 11a–1 make it unlawful for any member of a national securities exchange to effect any transaction for his or her own account, the account of an associated person, or an account with respect to which it or an associated person has discretion. Section 5f of the Act, as amended by Section 252(a) of the CFMA, provides that any board of trade that is registered with the SEC as a national securities exchange or a national securities association, or is an alternative trading system, shall be considered a DCM in security futures products, provided that certain enumerated requirements are satisfied, upon filing a notice with the Commission. Section 5f(b)(1)(B), however, specifically exempts such notice-registered entities from Section 4j of the Act. Similarly, Section 6(g) of the 1934 Act, as amended by Section 202(a) of the CFMA, provides that any board of trade that has been designated as a contract market by the Commission or has registered with the Commission as a DTF, may register with the SEC as a national securities exchange by filing notice with the SEC, solely for the purposes of trading security futures products, provided that certain enumerated requirements are satisfied. DCMs and DTFs that notice register with the SEC for the purpose of trading security futures products are exempt from Section 11(a)(1) of the 1934 Act.

[4] Under proposed Regulation 41.27(a)(2), the term ''member'' would have the meaning set forth in Section 1a(24) of the Act. Section 1a(24) defines ''member'' to mean ''an individual, association, partnership, corporation, or trust * * * owning or holding membership in, or admitted to membership representation on, [a designated contract market] or derivatives transaction execution facility, or having trading privileges on [a designated contract market] or derivatives transaction execution facility.''

[5] In order to enforce a dual trading restriction, DCMs and DTFs must be able to identify the source of each trade. Specifically, DCMs and DTFs must be able to determine whether a trade is for a customer. The Commission's proposed rulemaking ''A New Regulatory Framework for Trading Facilities, Intermediaries and Clearing Organizations,'' 66 FR 14262 (March 9, 2001), did not reserve Commission Regulation 1.35 with respect to DCMs or DTFs. Thus, exchanges would no longer be required to identify account types using customer type indicator (''CTI'') codes. Use of CTI codes, however, would be an effective way for DCMs or DTFs to monitor compliance with a dual trading restriction.

[6] As noted above, prior to the CFMA, the Act referred to contract markets as Commission-approved products traded on a board of trade. The CFMA changes the use of the term ''contract market'' to mean a board of trade, rather than a product traded on a board of trade. The statutory language of Section 4j(b) of the Act, in contrast to the language of Section 4j(a), inadvertently uses the term contract market as it was used prior to the CFMA. this results in an anomaly, which, if read literally, changes the definition of dual trading in a manner that would restrict activity never considered to be dual trading by the Congress or the Commission.

through a system that electronically matches bids and offers entered into the system.[7] Specifically, the dual trading definition found in Section 4j(b) refers to ''floor brokers'' who ''execute'' customer orders. Traditionally, floor brokers execute customer orders on the trading floor whereas various registrants as well as unregistered individuals enter orders into electronic trading systems that then match orders pursuant to a predetermined algorithm. In this connection, the definition of ''floor broker'' found in Section 1a(16) of the Act contemplates a person ''in or surrounding * * * any pit, ring, or post * * *'' on the floor of an exchange and not through a system that electronically matches bids and offers.[8]

This application of the dual trading restriction takes into account that floor brokers who execute customer orders through open outcry have more control over those orders than customer orders entered into a system that electronically matches bids and offers. Specifically, a floor broker holding a customer order for trading through open outcry not only controls when the bid or offer is exposed to the market, but also controls the price of execution and whom the order is executed against. A broker holding a customer order for entry into a system that electronically matches bids and offers only can control when an order is entered into the system. An algorithm determines at what price and against whom the order is executed.[9]

The Commission recognizes that a DCM or DTF may permit the simultaneous trading of security futures products through open outcry on a trading floor and the entry of bids and offers on a system that electronically matches bids and offers pursuant to a predetermined algorithm for the same product, ''side-by-side trading.'' Under such circumstances, proposed Regulation 41.27 only would be implicated if a floor broker executes a customer order through open outcry on a trading floor during a trading session. Thus, a floor broker would be permitted to enter a bid or offer for a particular security futures product for customer accounts on an electronic trading system and trade the same product for non-customer accounts through open outcry during the same trading session. In contrast, a floor broker would be prohibited during the same trading session from executing a customer order for a particular security futures product through open outcry and entering a bid or offer for the same product for a non-customer account listed in 41.27(a)(4)(i)–(v) on an electronic trading system.[10]

C. Rules Implementing Dual Trading Prohibition

Prior to listing a security futures product for trading on a trading floor where bids and offers are executed through open outcry, a DCM or DTF must adopt a rule prohibiting dual trading. Under proposed Regulation 41.27(c)(1), a DCM must submit such a rule to the Commission in accordance with proposed Regulation 40.6, along with a written certification that the rule complies with the Act and the regulations promulgated thereunder, or must obtain Commission approval of such a rule pursuant to proposed Regulation 40.5. Under proposed Regulation 41.27(c)(2), a DTF must notify the Commission in accordance with proposed Regulation 37.7(b) that it has adopted a rule prohibiting dual trading or obtain Commission approval of such a rule pursuant to proposed Regulation 37.7(c).

D. Specific Permitted Exceptions to the Dual Trading Prohibition

In proposed Regulation 41.27(d), the Commission implements the directive of Section 4j(a)(2)(A) and (B) of the Act to permit certain exceptions to the dual trading prohibition. Proposed Regulation 41.27(d)(1)–(4) provides exceptions for the correction of errors resulting from the execution of a customer order, to permit a customer to designate in writing a floor broker to dual trade while executing orders for the customer's account, to permit a broker who unsuccessfully attempts to leg into a spread transaction to take the executed leg into his or her personal account and to offset such position, and to address market conditions that result in a temporary emergency. Prior to permitting such exceptions to a dual trading prohibition, a DCM or DTF would have to adopt a rule permitting the specific exceptions and submit the rule to the Commission or obtain Commission approval pursuant to the rule submission procedures of proposed Regulation 41.27(e)(1) or (2). These procedures are identical to the procedures under proposed Regulation 41.27(c)(1) and (2) for a DCM or DTF to submit a rule prohibiting dual trading.

E. Unique or Special Characteristics of an Agreement, Contract, or Transaction, or of the DCM or DTF

Pursuant to Section 4j(a)(2)(C) of the Act, proposed Regulation 41.27(f) would allow DCMs and DTFs to permit an exception to the dual trading prohibition to address an agreement, contract, or transaction that presents a unique or special characteristic, or to address a unique or special characteristic of the specific DCM or DTF. Any rule of either a DCM or a DTF permitting such an exception would be required to be submitted to the Commission for prior approval pursuant to the procedures set forth in proposed Regulation 40.5. Such a submission also should include an affirmative demonstration of why an exception is warranted.

A DCM or DTF rule permitting a dual trading exception based on a unique or special characteristic of an agreement, contract, or transaction, or of the DCM or DTF would require prior Commission approval because standards cannot be established in advance to articulate what would constitute a unique or special characteristic deserving of a dual trading exception. Thus, a DCM could not certify as required by proposed Regulation 40.6 that its rule complies with the Act and the regulations promulgated thereunder. Similarly,

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[7] In this connection, on February 24, 2000, the SEC approved the application of the International Securities Exchange LLC (''ISE''), a fully electronic options market, for registration as a national securities exchange. As part of the approval process, the SEC approved an ISE rule that permits an order for a member's personal account to be matched against a customer order entered by that member provided that: (1) The customer order is first exposed to the market for 30 seconds; (2) the member has been bidding or offering for at least 30-seconds prior to receiving a customer order that is executable against such bid or offer; or (3) the member utilized the facility mechanism described in ISE's block trading rule. The ISE's rules do not otherwise limit the ability of a member to trade for his or her personal account and for customers. *See* Exchange Act Release No. 34–42455 (February 24, 2000), 65 FR 11388 (March 2, 2000).

[8] Section 1a(16) of the Act defines a floor broker as ''as any person who, in or surrounding any pit, ring, post, or other place provided by a contract market or derivatives transaction execution facility for the meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility.''

[9] Notably, the Commission has repeatedly made clear that persons who are employed by registrants and handle non-discretionary orders on electronic trading systems need not be registered. Further, discretionary orders on such systems can be handled by registrants other than a floor broker, such as the associated persons of a futures commission merchant. See the Commission's rules for the registration of floor traders, 58 FR 19575, 19576 (April 15, 1993).

[10] The Chicago Mercantile Exchange lists several contracts that trade side-by-side through open outcry and on the electronic GLOBEX$_2$ trading system that differ only with respect to contract size. For example, the e-mini S&P 500 futures contract that trades on GLOBEX$_2$ is one-fifth the size of the S&P 500 futures contract that trades simultaneously through open outcry. If a DCM or DTF determines to trade side-by-side a particular security futures product that differs only with respect to contract size, the Commission would consider the two contracts to be the same contract for purposes of applying the dual trading restriction.

although a DTF is not required to provide a rule certification under the rule submission procedures of proposed Regulation 37.7(b), it is nevertheless required to comply with the Act and the Commission's regulations. Therefore, the Commission must evaluate each situation on its own merits to determine whether the DCM or DTF has demonstrated satisfactorily a unique or special characteristic of an individual agreement, contract, or transaction, or of the DCM or DTF warranting a dual trading exception.

III. Cost-Benefit Analysis

Section 15(a) of the Act, as amended by the CFMA, requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. The Commission's understanding is that Section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, Section 15(a) simply requires the Commission to consider the costs and benefits of its action in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations.

Section 4j(a) of the Act, as amended by the CFMA, directs the Commission to ''issue regulations to prohibit the privilege of dual trading in security futures products on each contract market and registered derivatives transaction execution facility.'' Section 4j(a) also provides the Commission with discretion to provide for limited exceptions to the dual trading prohibition that are necessary to ''ensure fairness and orderly trading in security futures product markets.'' Proposed Regulation 41.27(c) would require DCMs and DTFs that list security futures products for trading through open outcry on a trading floor to implement and enforce rules prohibiting dual trading. In addition, DCMs and DTFs that elect to permit dual trading subject to any of the exceptions set forth in proposed Regulation 41.27(d) or (f) would be required to enact and enforce rules regarding the particular exceptions.

Proposed Regulation 41.27 would protect market participants and the general public while minimizing the impact on security futures product markets. Specifically, the dual trading restriction would not affect DCMs or DTFs that trade security futures products only through trading systems that electronically match bids and offers. As explained above, this is consistent with the plain language of Section 4j of the Act, and takes into account that floor brokers who execute customer orders through open outcry have more control over those orders than customer orders entered into a system that electronically matches bids and offers.

Compliance with proposed Regulation 41.27 would impose costs on DCMs and DTFs with respect to enacting and enforcing rules restricting dual trading of security futures products traded through open outcry on a trading floor. The costs of enacting and enforcing rules associated with proposed Regulation 41.27 are either balanced or outweighed by the increased protection of market participants and the public. The Commission's exercise of its discretion in implementing the Congressional directive to restrict dual trading, as set forth in Section 4j of the Act, would not increase costs related to efficiency, competitiveness, and financial integrity of financial markets; price discovery; or sound risk management practices. After considering these factors, the Commission has determined to propose Regulation 41.27. Commenters are invited to submit any data that they might have quantifying the costs and benefits of the proposed regulation with their comments.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires federal agencies, in promulgating regulations, to consider the impact of those regulations on small entities. The regulation adopted herein would affect DCMs, DTFs, and floor brokers. The Commission previously has established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations on small entities in accordance with the RFA.[11] In its previous determinations, the Commission has concluded that contract markets are not small entities for the purpose of the RFA.[12] The Commission has recently proposed that DTFs, for reasons similar to those applicable to contract markets, are not small entities for purposes of the RFA.[13] Certain floor brokers would be affected by proposed Regulation 41.27. Although, the Commission believes that proposed Regulation 41.27 would not have a significant economic impact on a substantial number of small entities, the Commission invites comments on this issue.

B. Paperwork Reduction Act of 1995

This proposed Rulemaking contains information collection requirements within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The Commission has submitted a copy of this section to the Office of Management and Budget (OMB) for its review in accordance with 44 U.S.C. 3507 (d) and 5 CFR 1320.11, and has requested a new number for this collection. Collection of Information: Part 41 Relating to Security Indexes and Security Futures Products, OMB Control Number 3038–XXXX.

Proposed Regulation 41.27 contains some reporting requirements. Pursuant to proposed Regulation 41.27(c)(1), prior to listing a security futures product for trading through open outcry, a DCM would be required to submit to the Commission a rule prohibiting dual trading, together with a written certification that the rule complies with the Act, or obtain Commission approval of such a rule. Pursuant to proposed Regulation 41.27(c)(2), prior to listing a security futures product for trading through open outcry, a DTF would be required to notify the Commission that it had adopted a rule prohibiting dual trading or obtain Commission approval of such rule. DCMs and DTFs would have to comply with the same respective procedures prior to adopting a rule permitting any of the dual trading exceptions set forth in proposed Regulation 41.27(d)(1)–(4). Under proposed Regulation 41.27(f), a DCM or DTF seeking to permit a dual trading exception based on a unique or special characteristic of an agreement, contract or transaction, or of the DCM or DTF, would be required to obtain Commission approval of any such rule. With respect to recordkeeping requirements, proposed Regulation 41.27(d)(3) would permit a broker who unsuccessfully attempts to leg into a spread transaction for a customer, to take the executed leg into his or her personal account, and to offset such position, provided that a record is prepared and maintained to demonstrate that the customer order was for a spread transaction.

The estimated burden of proposed Regulation 41.27 was calculated as follows:

Estimated number of respondents: 2,446.

Total annual responses: 14,229.

[11] *See* 47 FR 18618–21 (Apr. 30, 1982).

[12] *See* 47 FR 18618 at 18619 (discussing contract markets).

[13] *See* 66 FR 14261, 14268 (Mar. 9, 2001).

Estimated average hours per response: .07.

Annual reporting burden: 993 hours.

The Commission has submitted the proposed collection of information to OMB for approval. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503; Attention: Desk Officer for the Commodity Futures Trading Commission.

The Commission considers comments by the public on this proposed collection of information in:

Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

Enhancing the quality, usefulness, and clarity of the information to be collected; and

Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in this proposed regulation between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed Regulation 41.27.

Copies of the information collection submission to OMB are available from the Commission Clearance Officer, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5160.

List of Subjects in 17 CFR Part 41

Security indexes and security futures products.

Accordingly, for the reasons discussed in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR as follows:

PART 41—SECURITY FUTURES PRODUCTS

1. The authority citation for Part 41 reads as follows:

Authority: Pub. L. 106–554, 114 Stat. 2763, §§ 251 and 252.

2. Section 41.27 is be added as follows:

§ 41.27 Prohibition of dual trading in security futures products by floor brokers.

(a) *Definitions.* For purposes of this section:

(1) *Trading session* means hours during which a designated contract market or registered derivatives transaction execution facility is scheduled to trade continuously during a trading day, as set forth in its rules, including any related post settlement trading session. A designated contract market or registered derivatives transaction execution facility may have more than one trading session during a trading day.

(2) *Member* shall have the meaning set forth in Section 1a(24) of the Act.

(3) *Broker association* includes two or more designated contract market or registered derivatives transaction execution facility members with floor trading privileges of whom at least one is acting as a floor broker who:

(i) Engage in floor brokerage activity on behalf of the same employer;

(ii) Have an employer and employee relationship which relates to floor brokerage activity;

(iii) Share profits and losses associated with their brokerage or trading activity; or

(iv) Regularly share a deck of orders.

(4) *Customer* means an account owner for which a trade is executed other than:

(i) An account in which a floor broker's ownership interest or share of trading profits is ten percent or more;

(ii) An account for which a floor broker has discretion;

(iii) An account controlled by a person with whom a floor broker has a relationship through membership in a broker association;

(iv) A house account of the floor broker's clearing member; or

(v) An account for another member present on the floor of a designated contract market or registered derivatives transaction execution facility or an account controlled by such other member.

(5) *Security futures product* shall have the meaning set forth in Section 1a(32) of the Act.

(6) *Dual trading* means the execution of customer orders by a floor broker through open outcry during the same trading session in which the floor broker executes directly or indirectly, either through open outcry or through a trading system that electronically matches bids and offers, a transaction for the same security futures product on the same designated contract market or registered derivatives transaction execution facility for an account described in paragraph (a)(4)(i)–(v) of this section.

(b) *Dual Trading Prohibition.* No floor broker shall engage in dual trading in a security futures product on a designated contract market or registered derivatives transaction execution facility, except as otherwise provided under paragraphs (d) and (f) of this section.

(c) *Rules Prohibiting Dual Trading.*—(1) *Designated contract markets.* Prior to listing a security futures product for trading on a trading floor where bids and offers are executed through open outcry, a designated contract market:

(i) Must submit to the Commission in accordance with Commission Regulation 40.6, a rule prohibiting dual trading, together with a written certification that the rule complies with the Act and the regulations thereunder, including this section; or

(ii) Must obtain Commission approval of such rule pursuant to Commission Regulation 40.5.

(2) *Registered derivatives transaction execution facilities.* Prior to listing a security futures product for trading on a trading floor where bids and offers are executed through open outcry, a registered derivative transaction execution facility:

(i) Must notify the Commission in accordance with Commission Regulation 37.7(b) that it has adopted a rule prohibiting dual trading; or

(ii) Must obtain Commission approval of such rule pursuant to Commission Regulation 37.7(c).

(d) *Specific Permitted Exceptions.* Notwithstanding the applicability of a dual trading prohibition under paragraph (b) of this section, dual trading may be permitted on a designated contract market or a registered derivatives transaction execution facility pursuant to one or more of the following specific exceptions:

(1) *Correction of errors.* To offset trading errors resulting from the execution of customer orders, provided, that the floor broker must liquidate the position in his or her personal error account resulting from that error through open outcry or through a trading system that electronically matches bids and offers as soon as practicable, but, except as provided herein, not later than the close of business on the business day following

the discovery of error. In the event that a floor broker is unable to offset the error trade because the daily price fluctuation limit is reached, a trading halt is imposed by the designated contract market or registered derivatives transaction execution facility, or an emergency is declared pursuant to the rules of the designated contract market or registered derivatives transaction execution facility, the floor broker must liquidate the position in his or her personal error account resulting from that error as soon as practicable thereafter.

(2) *Customer consent.* To permit a customer to designate in writing not less than once annually a specifically identified floor broker to dual trade while executing orders for such customer's account. An account controller acting pursuant to a power of attorney may designate a dual trading broker on behalf of its customer, provided, that the customer explicitly grants in writing to the individual account controller the authority to select a dual trading broker.

(3) *Spread transactions.* To permit a broker who unsuccessfully attempts to leg into a spread transaction for a customer to take the executed leg into his or her personal account and to offset such position, provided, that a record is prepared and maintained to demonstrate that the customer order was for a spread.

(4) *Market emergencies.* To address emergency market conditions resulting in a temporary emergency action as determined by a designated contract market or registered derivatives transaction execution facility.

(e) *Rules Permitting Specific Exceptions.*—(1) *Designated contract markets.* Prior to permitting dual trading under any of the exceptions provided in paragraph (d)(1)–(4), a designated contract market:

(i) Must submit to the Commission in accordance with Commission Regulation 40.6, a rule permitting the exception(s), together with a written certification that the rule complies with the Act and the regulations thereunder, including this section; or

(ii) Must obtain Commission approval of such rule pursuant to Commission Regulation 40.5.

(2) *Registered derivatives transaction execution facilities.* Prior to permitting dual trading under any of the exceptions provided in paragraph (d)(1)–(4), a registered derivatives transaction execution facility:

(i) Must notify the Commission in accordance with Commission Regulation 37.7(b) that it has adopted a rule permitting the exception(s); or

(ii) Must obtain Commission approval of such rule pursuant to Commission Regulation 37.7(c).

(f) *Unique or Special Characteristics of Agreements, Contracts, or Transactions, or of Designated Contract Markets or Registered Derivatives Transaction Execution Facilities.*

Notwithstanding the applicability of a dual trading prohibition under paragraph (b) of this section, dual trading may be permitted on a designated contract market or registered derivatives transaction execution facility to address unique or special characteristics of agreements, contracts, or transactions, or of the designated contract market or registered derivatives transaction execution facility as provided herein. Any rule of a designated contract market or registered derivatives transaction execution facility that would permit dual trading when it would otherwise be prohibited, based on a unique or special characteristic of agreements, contracts, or transactions, or of the designated contract market or registered derivatives transaction execution facility must be submitted to the Commission for approval under the procedures set forth in Commission Regulation 40.5. The rule submission must include a detailed demonstration of why an exception is warranted.

PART 155—TRADING STANDARDS

3. Section 155.5 is proposed to be removed and reserved.

Issued in Washington, DC on July 5, 2001, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–17171 Filed 7–10–01; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 164; 46 CFR Parts 25 and 27

[USCG–2000–6931]

RIN 2115–AF53

Fire-Suppression Systems and Voyage Planning for Towing Vessels

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking; Notice of meeting and reopening of comment period.

SUMMARY: The Coast Guard will hold a public meeting to let members of the public present oral comments on proposed rules for improving the safety of towing vessels. A supplemental notice of proposed rulemaking (SNPRM) published on November 8, 2000, would require the installation of fixed fire-extinguishing systems in towing vessels' engine rooms, and it would require owners or operators, and masters, to ensure that voyage plans are complete before their towing vessels commence trips with any barges in tow. These rules would reduce the number of uncontrolled fires in engine rooms, and other fire-related or operational mishaps on towing vessels; they would thereby save lives, diminish property damage, and reduce the associated threats to the environment and maritime commerce.

DATES: The Coast Guard will hold this public meeting on August 15, 2001, from 1 p.m. to 5 p.m., except that the meeting may close early if all business is finished. Other comments must reach the Docket Management Facility on or before September 15, 2001.

ADDRESSES: The Coast Guard will hold this public meeting at the Radisson Hotel, 1001 3rd Avenue, Huntington, West Virginia. The telephone number is 304–525–1001.

You may submit your comments directly to the Docket Management Facility. To make sure that your comments and related material are not entered more than once in the docket [USCG–2000–6931], please submit them by only one of the following means:

(1) By mail to the Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov*.

The Facility maintains the public docket for this notice. Comments, and documents as indicated in this notice, will become part of this docket and will be available for inspection or copying at room PL–401, on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this notice, call Randall Eberly, P. E., Project Manager, Lifesaving and Fire Safety Division of

the Office of Design and Engineering Standards (G–MSE–4), Coast Guard, telephone 202–267–1861. For questions on viewing, or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Requests for Comments

The Coast Guard encourages you to submit comments and related material on the proposed rules concerning fire-suppression systems and voyage planning for towing vessels. If you do so, please include your name and address, identify the docket number [USCG–2000–6931] and give the reasons for each comment. You may submit your comments and material by mail, delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to seek special assistance at the meeting, contact Mr. Eberly at the address or phone number under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Background Information

The SNPRM on ''Fire-Suppression Systems and Voyage Planning for Towing Vessels'' [USCG–2000–6931] was published in the **Federal Register** November 8, 2000 [65 FR 66941]. It proposes the installation of fixed fire-extinguishing systems in the engine rooms of towing vessels, and it proposes that owners or operators, and masters, ensure that voyage planning is conducted before vessels towing barges get under way on trips or voyages of at least 12 hours. Towing vessels that engage only in assistance towing, pollution response, or fleeting duties in limited geographical areas would be exempt from the measures in this SNPRM. The SNPRM stems from the incident on January 19, 1996, when the tugboat SCANDIA, with the tank barge NORTH CAPE in tow, caught fire five miles off the coast of Rhode Island. Crewmembers could not control the fire and, without power, they were unable to prevent the barge carrying 4 million gallons of oil from grounding and spilling about a quarter of its contents into the coastal waters. The spill led Congress to amend the law to permit the Secretary of Transportation—''in consultation with the Towing Safety Advisory Committee'' (TSAC)—to require fire-suppression and other measures on all towing vessels. The measures outlined in the SNPRM would likely decrease the number and severity of injuries to crews, prevent damage to vessels, structures, and other property, and protect the environment.

On February 8, 2001, a public meeting concerning the SNPRM was held in Washington, DC (as announced in the **Federal Register** on December 28, 2000 [65 FR 82303]). On February 23, 2001, we announced in the **Federal Register** that we were extending the comment period for the SNPRM to May 8, 2001 [66 FR 11241]. Several comments to the docket sought another public meeting, in Huntington, West Virginia. The Coast Guard agrees with those comments, so we are planning to hold the meeting announced by this notice.

Public Meeting

The Coast Guard encourages interested persons to attend the meeting and present oral comments during the meeting. The meeting is open to members of the public. Please note that the meeting may close early if all business is finished. If you would like to present an oral comment during the meeting, please notify Mr. Eberly at the address given under **FOR FURTHER INFORMATION CONTACT** no later than August 8, 2001. If you are unable to attend the meeting, you may submit comments as indicated under **SUPPLEMENTARY INFORMATION.**

Dated: July 2, 2001.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 01–17108 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–U

POSTAL SERVICE

39 CFR Part 111

Delivery of Mail To a Commercial Mail Receiving Agency

AGENCY: Postal Service.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule revises the Postal Service's regulations that govern procedures for delivery of an addressee's mail to a commercial mail receiving agency (CMRA). Under this proposed rule, procedures are provided to identify when a corporate executive center (CEC) or a part of its operation is considered a commercial mail receiving agency for purposes of these standards. This proposal revises a proposed rule published on February 2, 2000 (65 FR 4918). As a result of public comment to that rulemaking, discussed later, that proposal is rescinded and revised procedures are proposed to change the terminology from ''corporate executive center'' (CEC) to ''office business center'' (OBC). The Postal Service is also proposing revisions to the original proposed rule concerning the dollar test that was proposed, as well as proposing several other changes. The proposed rule will identify when an OBC or a part of its operations is considered a commercial mail receiving agency.

DATES: Comments must be received on or before August 10, 2001.

ADDRESSES: Written comments should be mailed to Manager, Delivery Operations, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 7142, Washington, DC 20260–2802. Comments by email or fax will not be accepted. Copies of all written comments will be available for inspection and copying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Roy E. Gamble, 202–268–3197.

SUPPLEMENTARY INFORMATION: On March 25, 1999, the Postal Service published a final rule in the **Federal Register** (64 FR 14385) amending sections D042.2.5 through D042.2.7 of the Domestic Mail Manual (DMM) to update and clarify procedures for delivery of an addressee's mail to a commercial mail receiving agency. The final rule provided procedures for registration to act as a CMRA; an addressee to request mail delivery to a CMRA; and delivery of the mail to a CMRA. This rule was applicable to all businesses that provide agent-mailing services to their customers; that is, the business receives delivery of mail for others from the Postal Service at a CMRA address.

As explained in the February 2000 notice of proposed rulemaking (NPRM), a ''corporate executive center'' (CEC) is a business that operates primarily to provide private office facilities and business support services to individuals or firms (CEC customers). These CEC customers also may receive mail at the CEC address. CECs also may have customers that do not occupy a private office and use the CEC address

primarily to receive mail and other business support services. These CEC customers receive services similar to those a CMRA provides to its customers. For this reason, a number of parties have asserted that these customers and the CECs serving them should follow the same procedures as CMRAs and their customers. The Postal Service agrees with these suggestions.

A CEC and industry representatives requested that the Postal Service provide guidelines to determine when a CEC is considered a CMRA for postal purposes; that is, when a CEC and its customers must follow the DMM rules governing the operation of CMRAs. Before publishing the February 2000 proposal, the Postal Service met with the parties to seek a consensus. There was general agreement that CEC customers who occupy a private office on a full-time basis at the CEC should not be considered CMRA customers for postal purposes. There was also general agreement that CEC customers who receive mail service (or mail and business support services) without the right to occupy private office space at the CEC should be considered CMRA customers for postal purposes. The difficult question arises when the CEC customer is entitled, in addition to mail and business support services, to private office space on a less-than-full-time basis. After discussions with the industry representatives, the Postal Service proposed an objective test based upon at least a $125 fee paid per month for occupancy and related support services by the CEC customer.

Comments on the proposed rule were due on or before March 3, 2000. The Postal Service received a total of 118 comments. Of the total, 55 comments were from CEC customers, 29 comments were from CEC owners or franchisers, 10 comments were from CMRA owners, and one comment was from a special interest group. These comments were largely identical in content, and all supported the rules with reservations or proposed changes. The other 23 comments were received from CEC owners or franchisers, CMRA owners, and CEC and CMRA customers. A joint comment was submitted by 33 states and the District of Columbia, represented by their respective Attorneys General, with the exception of one state represented by its Secretary of State. These comments all opposed the proposed rules.

Several comments received that supported the February 2 NPRM rule expressed concern that because the CECs primarily operate a fundamentally different kind of business than do CMRAs, the CECs should be totally exempt from the CMRA standards. These comments were based on an assertion that the CECs provide all the attributes of residency to customers who use their services. Some commenters supported the rule but did not feel it appropriate to give a CMRA designation to any part of a CEC; these commenters argued that the proposed CEC rule should be rescinded immediately. Some commenters supported a test based on a fee paid by the CEC customer, but argued that the fee should be indexed by market area or provide a range with $125 as the upper limit. Some commenters stated that the fee should be lowered to $100 because ''business address'' customers use CEC mail services and, on a flexible basis, their conference rooms. One CEC owner asserted the lower limit ($125) for the services they offer is unrealistic because CEC customers have access to a ''corporate'' image.

Commenters opposing the rule expressed concern that the distinguishing difference appears to be the minimum $125 fee. The extent of these comments expressed a wide range of concerns with the fee. One CMRA owner asserted the rule would exempt CEC ''business address'' customers from the CMRA rules and that both the CEC customer and the CMRA customer are buying the same image and, to set the cost of avoiding the CMRA rules at $125 is discrimination. One CEC owner promised to take the Postal Service to court because ''the USPS has no proper role in setting the terms of CEC service packages or the price they charge.'' Another CEC owner asserted that the rule as written would essentially govern how the industry describes and prices its services, thereby condoning and encouraging price fixing. One commenter expressed concern that the proposed definition will open a major loophole in the regulations for those who wish to avoid address and informational requirements associated with receiving CMRA services. One CMRA owner stated, ''The CEC is also an industry that provides an avenue for receipt of mail without the individual being physically located and conducting business at the address. Apparently the post office believes that anyone willing and able to pay $125 per month to receive mail at an address wouldn't be the kind of person who would perpetrate fraud. The USPS does not intend to reduce mail fraud but to regulate their closest competition out of business.'' Another commenter stated, ''The standards should require that a CEC customer actually conduct business at the address.''

The Postal Service does not believe it unreasonable to require CEC customers who receive mail and business support services similar to those provided by CMRAs to be considered CMRA customers for postal purposes. Indeed, were that not the case, CMRAs could argue that they were treated unfairly. The Postal Service only seeks to ensure that parties receiving similar services are treated in the same manner by the Postal Service. CEC customers that do not receive CMRA-type services are not considered CMRA customers for postal purposes under the proposal, and CECs that do not provide CMRA-type services to any customers will not be subject to the DMM rules governing CMRAs.

Some of the objections to the proposed $125 fee standard appear to have been based on a misunderstanding of the proposal. The fee standard did not apply to situations where customers received only mail or related business support services other than private office occupancy. These parties were to be considered CMRA customers for postal purposes regardless of the fee paid to the CEC. Although the Postal Service understands that some CECs may have told customers that price increases were required by the Postal Service, there was no basis for that assertion or that the proposal would have constituted ''price fixing.'' The proposal did not require CECs to charge customers any specific amount. Instead, it merely sought to base the determination on whether customers should be treated as CMRA customers for postal purposes on an objective combination of the services provided and the fees charged.

Based in part on the concerns expressed by commenters, the Postal Service has withdrawn the test proposed in the February 2000 rulemaking. The Postal Service met again with industry representatives to seek agreement on a different set of guidelines. This time, the discussion centered on the number of hours of occupancy of the private office to which the CEC customer was entitled in its agreement with the CEC. There was a wide range of opinions, even among CEC representatives, as to the appropriate test. For instance, one CEC representative suggested that a right to full-time occupancy be required, while another suggested that one hour per week on average would be appropriate. No consensus was reached.

After reviewing the points raised by the parties, the proposed guidelines in this NPRM are based on 16 hours of private office occupancy per month. That is, if the agreement between the CEC and its customer provides the right

to at least 16 hours of private office space per month (in addition to certain support services and other requirements), then that customer will not be considered a CMRA customer for postal purposes. We understand that the fees charged by CECs for services that include the right to at least 16 hours per month of private office occupancy will generally significantly exceed the fees charged by CMRAs and will ensure a meaningful distinction between CMRA and CEC customers. However, we were also mindful that the standard not be set too high. We believe that some customers use CECs because they are primarily interested in private office space, rather than CMRA-type services, but only need such space on a limited basis due to the nature of their businesses. We also note that this proposed test is based on private office space being set aside for 16 hours for a specific individual or firm, regardless of the actual hours that the individual or firm occupies the space. A test based on actual occupancy would be difficult to administer and would create a burden on CECs to maintain occupancy records. We have also proposed several other changes to the procedures of the original proposal and made other changes that are not substantive in nature.

During recent discussions, CEC representatives also proposed a change in terminology. They explained that the preferred terminology for their businesses is ''office business center'' or OBC. The Postal Service is incorporating the request in this NPRM.

Although exempt from the notice and comment requirements of the Administrative Procedures Act (5 U.S.C. of 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR Part 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001 3011, 3201–3219, 3403–3406, 3621, 5001.

2. Section D042.2.0 of the Domestic Mail Manual is amended by adding subsection D042.2.8 to read as follows:

D Deposit, Collection, and Delivery

D000 Basic Information

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D040 Delivery of Mail

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D042 Conditions of Delivery

* * * * *

2.0 DELIVERY TO ADDRESSEE'S AGENT

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[Add new 2.8 to read as follows:]

2.8 OBC Acting as a CMRA

The procedures for an office business center (OBC) or part of its operation acting as a commercial mail receiving agency (CMRA) for postal purposes are as follows:

a. An OBC is a business that operates primarily to provide private office facilities and business support services to individuals or firms (customers). OBCs receive single point delivery. OBC customers that receive mail at the OBC address will be considered CMRA customers for postal purposes under the standards set forth in b. Parties considered CMRA customers under this provision must comply with the standards set forth in 2.5 through 2.7. An OBC must register as a CMRA and comply with all other CMRA standards if one or more customers receiving mail through its address is considered a CMRA customer.

b. An OBC customer is considered to be a CMRA customer for postal purposes if its written agreement with the OBC provides for mail service only or mail and other business services (without regard for occupancy or other services that the OBC might provide and bill separately). Additionally, an OBC customer receiving mail at the OBC address is considered to be a CMRA customer for postal purposes if each of the following is true:

(1) The customer's written agreement with the OBC does not provide for the full-time use of one or more of the private offices within the OBC facility; and

(2) The customer's written agreement with the OBC does not provide all of the following:

(A) The use of one or more of the private offices within the OBC facility for at least 16 hours per month;

(B) Full-time receptionists service and live personal telephone answering service during normal business hours and voice mail service after hours;

(C) A listing in the office directory, if available, in the building in which the OBC is located; and

(D) Use of conference rooms and other business services on demand, such as secretarial services, word processing, administrative services, meeting planning, travel arrangements, and videoconferencing.

c. Notwithstanding any other standards, a customer whose written agreement provides for mail services only or mail and other business support services will not be considered an OBC customer (without regard for occupancy or other services that an OBC may provide and bill for on demand).

d. The Postal Service may request from the OBC copies of written agreements or any other documents or information needed to determine compliance with these standards. Failure to provide requested documents or information may be a basis for suspending delivery service to the OBC under the procedures set forth in 2.6f through h.

* * * * *

An appropriate amendment to 39 CFR 111.3 to reflect this change will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–17239 Filed 7–10–01; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–134–4–7503; FRL–7010–8]

Proposed Approval and Promulgation of Implementation Plans; Texas; Non-Road Large Spark-Ignition Engines; Agreements With Airport Operators and Airlines Regarding Control of Pollution From Ground Support Equipment for the Houston/Galveston Ozone Nonattainment Area (HGA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve revisions to the Texas State Implementation Plan. This rule making covers two separate actions. We are proposing approval of:

A rule requiring that non-road large spark-ignition engines of 25 horsepower (hp) or larger in all counties of the State of Texas conform to requirements identical to Title 13 of the California Code of Regulations, Chapter 9; and

Agreements requiring owners and operators at major airports in the HGA to bring about oxides of nitrogen (NO_X) emission reductions for sources under their control.

This new rule and the agreements will contribute to attainment of the ozone standard in the HGA. The EPA is

approving these revisions to the Texas SIP to regulate emissions of oxides of nitrogen (NO_X) in accordance with the requirements of the Federal Clean Air Act (the Act).

DATES: Written comments must be received on or before August 10, 2001.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733. Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Diana Hinds, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7561.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refers to EPA.

This document concerns control of air pollution of NO_X for non-road equipment sources in the HGA area and the control measures for attainment demonstration purposes. For further information, please see the Technical Support Document (TSD) prepared for this action.

What Action Are We Taking?

On December 22, 2000, the Governor of Texas submitted to EPA revisions to the 30 TAC, Chapter 114, ''Control of Air Pollution From Motor Vehicles,'' as a revision to the SIP. That submission included requirements that non-road large spark-ignition engines of 25 horsepower (hp) or larger conform to Title 13 of the California Code of Regulations, Chapter 9; and NO_X reductions from airport Ground Support Equipment (GSE).

Also on December 22, 2000, the Texas Natural Resource Conservation Commission (TNRCC) withdrew its adopted rule revising 30 TAC Chapter 114, Subchapter I, Division 7 (Houston/Galveston GSE), and substituted agreements with airlines and airport operators in the HGA for equivalent NO_X reductions.

These new rules will contribute to attainment of the ozone standard in the HGA area. The EPA is proposing to approve these revisions to the Texas SIP to regulate emissions of NO_X in accordance with the requirements of the Federal Clean Air Act (the Act).

For more information on the SIP revision, please refer to our TSD.

What Are the Requirements of the December 22, 2000, Texas SIP for non-Road Large Spark-Ignition (LSI) Engines?

Non-road, LSI engines are primarily used to power industrial equipment such as forklifts, generators, pumps, compressors, aerial lifts, sweepers, and large lawn tractors. The engines are similar to automotive engines and can use similar automotive technology, such as closed-loop engine control and three-way catalysts, to reduce emissions.

Texas developed a non-road LSI engine strategy which establishes emission requirements for non-road, LSI engines 25 hp and larger for model year 2004 and subsequent model-year engines, and all equipment and vehicles that use such engines, by requiring non-road LSI engines in all counties in the state to meet emission limits equivalent to, and certified in, a manner identical to 13 California Code of Regulations, Chapter 9.

Although emissions from non-road, LSI engines have not yet been regulated by EPA under section 209(e)(2) of the Act, the California Air Resources Board (CARB) has adopted exhaust emission standards for these engines (EPA proposed rules at 65 FR 76797 on December 7, 2000). Section 209(e)(2)(A) of the Act authorizes EPA to approve California regulation of non-road engines other than those used in locomotives, construction and farm equipment. Section 209(e)(2)(B) of the Act allows another state to adopt requirements for non-road engines if such regulations are identical to California's requirements. EPA has promulgated regulations, codified at 40 CFR section 85.1606, setting forth the criteria for adoption of California regulations regarding non-road vehicles and non-road engines. We are proposing that Texas has met the statutory and regulatory requirements for adoption of the California LSI program. All counties in the State are affected by this rule.

What Are the Requirements of the December 22, 2000, Texas SIP for Reduction of Oxides of Nitrogen From Airport Ground-Support Equipment?

On August 25, 2000, Texas proposed rules that required reductions of NO_X emissions of up to 90% of the 1996 contributions attributable to airport GSE from the airports which have the most air carrier operations in the eight county ozone nonattainment area. Texas withdrew the rule (see 25 TexReg 12639; December 22, 2000), after entering into enforceable agreements with airport owners and operators that brought about equivalent emission reductions. The state signed an Agreed Order with Continental Airlines for its operations at Houston's George Bush Intercontinental Airport on October 18, 2000, and signed a similar Agreed Order with Southwest Airlines for its operations at William Hobby Airport on December 6, 2000. The Agreements made enforceable specific local emission reductions of NO_X from sources under the airlines' control. On October 18, 2000, Texas approved a Memorandum of Agreement with the City of Houston to bring about additional reductions from operations in the Houston Airport System. The sum of these agreed reductions is equal to those reductions imposed in the withdrawn Texas rulemaking package.

The Agreements with Southwest and Continental airlines require that NO_X emissions from mobile or stationary sources under the airlines' control be reduced by an amount equal to 25% of the NO_X emitted from its 1996 GSE fleet by December 31, 2003; 50% by December 31, 2004; and 75% by December 31, 2005. Further, Reasonably Available Control Considering Costs (RACCC), or alternative-fuel and/or electric-powered equipment, will be installed on GSE equipment added to the fleet after 1996; best available technology (BAT) will be utilized for GSE added to the fleet after 2004; and the airlines will assist the State in demonstrating that 75% NO_X reductions, based on emission levels of the 1996 GSE fleet, have been achieved. Plans for the implementation of the NO_X reduction measures are due to the state by May 1, 2002.

The City of Houston's Memorandum of Agreement states that the Houston Airport System will provide 15% NO_X reductions in addition to the 75% NO_X reductions (based on 1996 GSE emission levels) agreed to by Southwest and Continental airlines. The Houston Airport System includes George Bush Intercontinental Airport/Houston, William P. Hobby Airport, Ellington Field, and any other future facility acquired by Houston. By December 31, 2004, Houston agrees to have implemented strategies and achieved agreed reductions. Strategies include consolidation of rental car facilities and common bussing, consolidation of employee parking lot and busses, cleaner busses for the City economy lot, a pilot program for fuel cell technology, and infrastructure support for voluntary

reductions of GSE emissions by various operators in the Houston Airport System. Alternative strategies may be implemented to bring about, or count for, the agreed reductions. A plan to achieve the agreed reductions is due to the state by May 1, 2002.

Texas believes that the NO_X reductions claimed in the HGA Post-99 Rate-of-Progress/Attainment SIP will be achieved through these Agreements as alternate but equally enforceable mechanisms. These measures will contribute to the attainment and maintenance of the one-hour ozone standard in the HGA.

For additional information concerning these rule revisions, please refer to our TSD.

What Areas in Texas Will These Actions Affect?

The Non-Road LSI rule affects all Texas counties. The agreements concerning NO_X reductions from GSE affect airports in the HGA area.

Proposed Action

We are proposing approval of two rules: Requirements for Non-Road Large Spark-Ignition Engines, and specified NO_X reduction agreements with airlines and airport operators in the Houston-Galveston ozone nonattainment area.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Motor vehicle pollution, Nitrogen oxides, Ozone, Reporting and record keeping.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 26, 2001.

Jerry Clifford,

Deputy Regional Administrator, Region 6.

[FR Doc. 01–17336 Filed 7–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7009–5]

Approval of Section 112(l) Program of Delegation; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a request for delegation of the Federal air toxics program. The State's mechanism of delegation involves the straight delegation of all existing and future section 112 standards unchanged from the Federal standards. The actual delegation of authority of individual standards, except standards addressed specifically in this action, will occur through a mechanism set forth in a memorandum of agreement (MOA) between the Ohio Environmental Protection Agency (OEPA) and EPA. This request for approval of a mechanism of delegation encompasses all Part 70 and non-Part 70 sources subject to a section 112 standard with the exception of the Coke Oven standard.

In the final rules section of this **Federal Register**, the EPA is approving the State's request as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless the Agency receives relevant adverse written comment on this action. Should the Agency receive such comment, it will publish a final rule informing the public that the direct final rule will not take effect and such public comment received will be addressed in a subsequent final rule based on this proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. EPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received on or before August 10, 2001.

ADDRESSES: Written comments should be sent to: Pamela Blakley, Chief, Permits and Grants Section, Air Programs Branch (AR–18J), U.S.

Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and other supporting information used in developing the approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR–18J, Chicago, Illinois 60604. Please contact Genevieve Damico at (312) 353–4761 to arrange a time if inspection of the submittal is desired.

FOR FURTHER INFORMATION CONTACT: Genevieve Damico, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4761, damico.genevieve@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the final rules section of this **Federal Register**.

Dated: June 19, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–17073 Filed 7–10–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH31

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Carolina Heelsplitter

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the Fish and Wildlife Service (Service), propose to designate critical habitat for the Carolina heelsplitter (*Lasmigona decorata*), a freshwater mussel, under the Endangered Species Act of 1973, as amended (Act). The areas proposed for critical habitat designation include portions of a river and nine creeks in North Carolina and/or South Carolina. This action comes as a result of a lawsuit filed against us by the Southern Appalachian Biodiversity Project and the Foundation for Global Sustainability. If this proposal is made final, Federal agencies must ensure that actions they fund, permit, or carry out are not likely to result in the destruction or adverse modification of critical habitat. State or private actions, with no Federal involvement, would not be affected by this rulemaking action.

DATES: We will consider comments received by September 10, 2001. Requests for public hearings must be received, in writing, at the address shown in the **ADDRESSES** section by August 27, 2001.

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods:

1. You may submit written comments and information to the State Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801.

2. You may hand-deliver written comments to our Asheville Field Office, at the above address, or fax your comments to 828/258–5330.

3. You may send comments by electronic mail (e-mail) to *john_fridell@fws.gov*. For directions on how to submit electronic filing of comments, see the ''Public Comments Solicited'' section.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John A. Fridell, Fish and Wildlife Biologist (telephone 828/258–3939).

SUPPLEMENTARY INFORMATION:

Background

Lea (1852) originally described the Carolina heelsplitter, a freshwater mussel, as *Unio decoratus.* Johnson (1970) synonymized this species with *Lasmigona subviridis* (Conrad 1835). Clarke (1985) recognized the Carolina heelsplitter as a distinct species, *Lasmigona decorata,* and synonymized *Unio charlottensis* (Lea 1863) and *Unio insolidus* (Lea 1872) with *Lasmigona decorata.* A genetic comparison of a specimen of *L. decorata* with specimens of *L. subviridis* (Tim King, U.S. Geological Survey, Leetown, West Virginia, pers. comm. 2001) supports Clarke's (1985) position on the taxonomy (scientific classification) of this species.

The Carolina heelsplitter has an ovate, trapezoid-shaped, unsculptured (smooth with no noticeable bumps or protrusions) shell. The shell of the largest known specimen measures 11.5 centimeters (cm) (4.5 inches (in)) in length, 3.9 cm (1.5 in) in width, and 6.8 cm (2.7 inches) in height. The shell's outer surface varies from greenish brown to dark brown in color, and shells from younger specimens have faint greenish brown or black rays. The nacre (inside surface) is often pearly white to bluish white, grading to orange in the area of the umbo (bulge or beak, protrudes near the hinge of a mussel). However, in older specimens the entire nacre may be a mottled pale orange. The hinge teeth (pseudocardinal teeth and lateral teeth) of the species are well developed but thin and rather delicate. The left valve (half of a mussel shell) has two blade-like pseudocardinal teeth and two lateral teeth, and the right valve has one of each. The left valve may also have an interdental projection, a slight projection located between the lateral and pseudocardinal teeth (adapted from Keferl 1991). Clarke (1985) contains a detailed description of the species' shell, with illustrations.

Distribution, Habitat, and Life History

The Carolina heelsplitter currently has a very fragmented, relict distribution but historically was known from several locations within the Catawba and Pee Dee River systems in North Carolina and the Pee Dee and Savannah River systems, and possibly the Saluda River system, in South Carolina. Historically, the species was collected from the Catawba River, Mecklenburg County, North Carolina; several streams and ''ponds'' in the Catawba River system around the Charlotte area of Mecklenburg County, North Carolina; one small stream in the Pee Dee River system in Cabarrus County, North Carolina; one ''pond'' in the Pee Dee River system in Union County, North Carolina; and an area in South Carolina referred to only as the ''Abbeville District,'' a terminology no longer employed (Clarke 1985, Keferl and Shelly 1988, Keferl 1991). The records from the Abbeville District, South Carolina, were previously believed to have been from the Saluda River system (Clarke 1985, Keferl and Shelly 1988, Keferl 1991, Service 1993). However, biologists discovered a population of the Carolina heelsplitter in the spring of 1995 in the Savannah River system (Stevens Creek watershed) (Alderman 1995, 1998a, and 1998b). Therefore, the historic records from the Abbeville District may have been from either the Saluda River system or the Savannah River system or both. An additional historic record of the Carolina heelsplitter from the main stem of the Pee Dee River in Richmond County, North Carolina, was recently discovered (Art Bogan, North Carolina Museum of Science and Natural History, pers. comm. 2001); however, surveys by biologists with the North Carolina Wildlife Resources Commission (NCWRC) and North Carolina Department of Transportation have failed to turn up any evidence of a surviving population of the species at,

or in the vicinity of, the site of this record (John Alderman, NCWRC, personal communication 2001).

Recent collection records (Keferl and Shelly 1988; Keferl 1991; Alderman 1995, 1998a, and 1998b; North Carolina Wildlife Resources Commission 1999 and 2000) indicate that the Carolina heelsplitter has been eliminated from the majority of its historical range, and only six populations of the species are presently known to exist. In Union County, North Carolina, one small remnant population occurs in the Catawba River system in Waxhaw Creek, a tributary to the Catawba River, and another small population occurs in both Duck Creek (a tributary to Goose Creek) and Goose Creek, a tributary in the Pee Dee River system. In South Carolina, there are four small surviving populations—one each in the Pee Dee and Catawba River systems and two in the Savannah River system. The population in the Pee Dee River system occurs in a relatively short reach of the Lynches River in Chesterfield, Lancaster, and Kershaw Counties and extends into Flat Creek, a tributary to the Lynches River in Lancaster County. In the Catawba River system, the species survives only in a short reach of Gills Creek in Lancaster County. In the Savannah River system, one population is found in Turkey Creek and two of its tributaries, Mountain Creek and Beaverdam Creek in Edgefield County, and another smaller population survives in Cuffytown Creek, in Greenwood and McCormick Counties. No evidence of a surviving population has been found in recent years in the Saluda River system.

Historically, the Carolina heelsplitter was reported from small to large, moderate-gradient streams and rivers as well as ponds. The ''ponds'' referred to in historic records are believed to have been mill ponds on some of the smaller streams within the species' historic range (Keferl 1991). Presently, the species is known to occur in only ten small streams and one small river. It has been recorded from a variety of substrata including mud, clay, sand, gravel, cobble/boulder/bedrock without significant silt accumulations, along stable, well-shaded stream banks (Keferl and Shelly 1988, Keferl 1991). However, in Mountain Creek in Edgefield County, South Carolina, two young, live individuals were found near the center of the stream channel in a stable, relatively silt-free substrate comprised primarily of a mixture of coarse sand, gravel, and cobble, with scattered areas of exposed boulders/bedrock (J.A. Fridell, personal observation, 1995). It is conceivable that this is the preferred habitat type for the species and that in other areas scouring and degradation of the gravelly substrata has restricted the species to softer substrata found along the portions of the stream banks that receive less scouring. In either case, the stability of the stream banks and stream-bottom substrata appear to be critical to the species. Keferl (1991) noted that in his surveys of Goose, Waxhaw, and Flat Creeks and the Lynches River, he found the highest concentrations of the species in (bank) undercuts and along shaded banks stabilized with extensive tree roots, a buried log, and/or rocks.

Like other freshwater mussels, the Carolina heelsplitter feeds by filtering food particles from the water column. The specific food habits of the species are unknown, but other freshwater mussels have been documented to feed on detritus (decaying organic matter), diatoms (various minute algae), phytoplankton (microscopic floating aquatic plants), and zooplankton (microscopic floating aquatic animals). The reproductive cycle of the Carolina heelsplitter is likely similar to that of other native freshwater mussels. Males release sperm into the water column; the sperm are then taken in by the females through their siphons during feeding and respiration. The females retain the fertilized eggs in their gills until the larvae (glochidia) fully develop. The mussel glochidia are released into the water, and within a few days they must attach to the appropriate species of fish, which are then parasitized for a short time while the glochidia develop into juvenile mussels. They then detach from their ''fish host'' and sink to the stream bottom where they continue to develop, provided they land in a suitable substrate with the correct water conditions. The Carolina heelsplitter's life span, the fish host species, and many other aspects of its life history are unknown.

Reasons for Decline and Threats to Surviving Populations

Available information indicates that several factors adversely affect the water and habitat quality of our creeks and rivers and have contributed to the decline and loss of populations of the Carolina heelsplitter and threaten the remaining populations. These factors include pollutants in wastewater discharges (sewage treatment plants and industrial discharges); habitat loss and alteration associated with impoundments, channelization, and dredging operations; increased storm-water run-off; and the run-off of silt, fertilizers, pesticides, and other pollutants from poorly implemented land-use activities (Service 1993 and 1997). Many of the streams in the area of Charlotte, North Carolina, that are known to have historically supported the Carolina heelsplitter, but which no longer do, have been degraded by a combination of the factors listed above and appear to no longer support, or be capable of supporting, any species of native mussels. Additionally, large reaches of the main stems of the Pee Dee, Catawba, Saluda, and upper Savannah Rivers, that likely once supported the Carolina heelspitter, have been affected by impoundments, as well as the other factors listed above, and have lost much of their historic freshwater mussel abundance and diversity.

Freshwater mussels, especially in their early life stages, are extremely sensitive to many pollutants (chlorine, ammonia, heavy metals, high concentrations of nutrients, etc.) commonly found in municipal and industrial wastewater effluents (Havlik and Marking 1987, Goudreau *et al.* 1988, Keller and Zam 1991). In the early 1900s, Ortmann (1909) noted that the disappearance of mussels is one of the first and most reliable indicators of stream pollution.

Activities such as impoundments, channelization projects, and in-stream dredging operations eliminate mussel habitat. These activities can also alter the quality and stability of the remaining stream reaches by affecting the flow regimes, water velocities, and water temperature and chemistry.

Agriculture (both crop and livestock) and forestry operations, highway and road construction, residential and industrial developments, and other construction and land-use activities that do not adequately control soil erosion and storm-water run-off contribute excessive amounts of silt, pesticides, fertilizers, heavy metals, and other pollutants. These pollutants suffocate and poison freshwater mussels. The run-off of storm water from cleared areas, roads, rooftops, parking lots, and other developed areas, that is often ditched or piped directly into streams, not only results in stream pollution but also results in increased water volume and velocity during heavy rains. This change in water volume and velocity causes channel and stream-bank scouring that leads to the degradation and elimination of mussel habitat. Construction and land-clearing operations are particularly detrimental when they result in the alteration of flood plains or the removal of forested stream buffers that ordinarily would help maintain water quality and the stability of stream banks and channels by absorbing, filtering, and slowly

releasing rainwater. Also, when storm water run-off increases from land-clearing activities, less water is absorbed to recharge ground water levels. Therefore, flows during dry months can decrease and adversely affect mussels and other aquatic organisms.

Previous Federal Actions

We recognized the Carolina heelsplitter in the Animal Notice of Review published in the January 6, 1989, **Federal Register** (54 FR 579) as a species under review for potential addition to the Federal List of Endangered and Threatened Wildlife and Plants. In that document, we designated the Carolina heelsplitter as a category 2 candidate for Federal listing. We no longer maintain a list of category 2 candidate species. At that time, category 2 represented those species for which we had some information indicating that the taxa may be under threat, but sufficient information was lacking to determine if they warranted Federal listing and to prepare a proposed rule. Subsequently, surveys of historical and potential Carolina heelsplitter habitat were conducted and revealed that the species had undergone a significant decline throughout its historical range and that the remaining known occurrences were threatened by many of the same factors that are believed to have resulted in this decline.

On May 26, 1992, we published in the **Federal Register** (57 FR 21925) a proposed rule to list the Carolina heelsplitter as an endangered species. The proposed rule provided information on the species' biology, status, and threats to its continued existence and included our proposed determination that the designation of critical habitat was not prudent for the Carolina heelsplitter. We solicited comments and suggestions concerning the proposed rule from the public, concerned governmental agencies, the scientific community, industry, and other interested parties.

Following our review of all the comments and information received throughout the listing process, by final rule (58 FR 34926) dated June 30, 1993, we listed the Carolina heelsplitter as endangered. We addressed the comments received throughout the listing process and incorporated appropriate changes into the final rule. That decision included our determination that the designation of critical habitat was not prudent for the Carolina heelsplitter because, after a review of all the available information, we determined that the Carolina heelsplitter was threatened by taking and that the designation of critical habitat could be expected to increase the degree of such threat to the species and would not be beneficial to the species (see ''Prudency Determination'' section below).

On June 30, 1999, the Southern Appalachian Biodiversity Project and the Foundation for Global Sustainability filed a lawsuit in United States District Court for the District of Columbia against the Service, the Director of the Service, and the Secretary of the Department of the Interior, challenging the Service's ''not prudent'' critical habitat determinations for four species in North Carolina—the Carolina heelsplitter (*Lasmigona decorata*), spruce-fir moss spider (*Microhexura montivaga*), Appalachian elktoe (*Alasmidonta raveneliana*), and rock gnome lichen (*Gymnoderma lineare*). On February 29, 2000, the U.S. Department of Justice entered into a settlement agreement with the plaintiffs in which we agreed to reexamine our prudency determination and submit to the **Federal Register**, by July 1, 2001, a withdrawal of the existing not prudent determination for the Carolina heelsplitter, together with a new proposed critical habitat determination if appropriate. We agreed further that if, upon consideration of all the available information and comments, we determine that designating critical habitat is not prudent for the Carolina heelsplitter, we will submit a final rule of that finding to the **Federal Register** by January 1, 2002. On the other hand, if we determine that the designation of critical habitat is prudent for the Carolina heelsplitter, we will send a final rule of this finding to the **Federal Register** by April 1, 2002.

This proposal is the product of our reexamination of our prudency determination for the Carolina heelsplitter and reflects our interpretation of the recent judicial opinions on critical habitat designation and the standards placed on us for making a not prudent determination. If additional information becomes available on the species' biology and distribution and threats to the species, we may reevaluate this proposal to designate critical habitat, including proposing additional critical habitat, proposing the deletion or boundary refinement of existing proposed critical habitat, or withdrawing our proposal to designate critical habitat.

Prudency Determination

Section 4(a)(3) of the Act and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time a species is determined to be endangered or threatened. Regulations under 50 CFR 424.12(a)(1) state that the designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species or (2) such designation of critical habitat would not be beneficial to the species. In our June 30, 1993, final rule, we determined that the designation of critical habitat was not prudent for the Carolina heelsplitter for both of these reasons.

A critical habitat designation has no effect on actions on private or State land unless these actions require Federal funds or a Federal permit. Section 7 of the Act, and the implementing regulations, provide for the protection of designated critical habitat as they require Federal agencies to ensure, in consultation with us, that activities they fund, authorize, or carry out are not likely to result in the destruction or adverse modification of designated critical habitat. Section 7 also requires Federal agencies to ensure, in consultation with us, that activities they fund, authorize, or carry out are not likely to jeopardize the continued existence of listed species. Regulations for the implementation of section 7 of the Act (50 CFR 402.2) provide for both a ''jeopardy'' standard and an ''adverse modification or destruction of critical habitat'' standard. The regulations at 50 CFR 402.2 define ''jeopardize the continued existence of'' as meaning to engage in an action that would reasonably be expected, directly or indirectly, to appreciably reduce the likelihood of both the ''survival and recovery'' of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species. ''Destruction or adverse modification'' is defined as a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the ''survival and recovery'' of a listed species. These regulations require that the analysis of adverse modification or destruction of critical habitat, like the jeopardy analysis, consider the detrimental effects of a proposed Federal action to both the survival and recovery of the listed species. Because of the restricted range and limited amount of suitable habitat available to the Carolina heelsplitter, we determined in the June 30, 1993, final rule that any action that would likely result in the destruction or adverse modification of the species' habitat would also likely jeopardize the species' continued existence. Because

Federal actions resulting in jeopardy are also prohibited by section 7, we determined that the designation of critical habitat would not provide any additional protection benefitting the species beyond that provided by the jeopardy standard.

In addition, we were concerned that the rarity and uniqueness of the Carolina heelsplitter could generate interest in the species and that the publicity associated with the designation of critical habitat, together with the publication of maps and descriptions of critical habitat, could increase the vulnerability of the species. The majority of the streams that support surviving populations of the species are small creeks, and the species is basically immobile and cannot escape collectors or vandals. Because all of the surviving populations are small, collection of the Carolina heelsplitter or other take would have a severe adverse effect on the species.

However, in the past few years, several of our determinations that the designation of critical habitat would not be prudent have been overturned by court decisions. For example, in *Conservation Council for Hawaii* v. *Babbitt,* the United States District Court for the District of Hawaii ruled that the Service could not rely on the ''increased threat'' rationale for a ''not prudent'' determination without specific evidence of the threat to the species at issue (2 F. Supp. 2d 1280 [D. Hawaii 1998]). Additionally, in *Natural Resources Defense Council* v. *U.S. Department of the Interior,* the United States Court of Appeals for the Ninth Circuit ruled that the Service must balance, in order to invoke the ''increased threat rationale,'' the threat against the benefit to the species of designating critical habitat 113 F. 3d 1121, 1125 (9th Cir. 1997).

We continue to be concerned that the Carolina heelsplitter is vulnerable to unrestricted collection, vandalism, or disturbance of its habitat and that these threats might be increased by the designation of critical habitat, publication of critical habitat maps, and further dissemination of location and habitat information. The low numbers and restricted range of the Carolina heelsplitter make it unlikely that its populations could withstand even moderate collecting pressure, habitat disturbance, or other take. However, at this time we do not have specific evidence for the taking, collection, trade, vandalism, or other unauthorized human disturbance specific to the Carolina heelsplitter. Consequently, we propose to withdraw our previous determination that the identification of critical habitat can be expected to increase the degree of threat to the species.

The courts also have ruled that, in the absence of a finding that the designation of critical habitat would increase threats to a species, the existence of another type of protection, even if it offers potentially greater protection to the species, does not justify a ''not prudent'' finding (*Conservation Council for Hawaii* v. *Babbitt* 2 F. Supp. 2d 1280). We are already working with Federal and State agencies, private individuals, and organizations in carrying out conservation activities for the Carolina heelsplitter and in conducting surveys for additional occurrences of the species and to assess habitat conditions. These entities are fully aware of the distribution, status, and habitat requirements for the Carolina heelsplitter, as currently known. However, the designation may provide some benefit to individuals, local and state governments, and others that join conservation efforts for the species, in that the designation may provide additional information to assist these entities in long-range planning since areas essential to the conservation of the species are more clearly defined and, to the extent currently feasible, the primary constituent elements of the habitat necessary to the survival of the species are specifically identified. Accordingly, we withdraw our previous determination that the designation of critical habitat will not benefit the Carolina heelsplitter. Therefore, we propose that the designation of critical habitat is prudent for the Carolina heelsplitter.

Proposed Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as (i) the specific areas within the geographic area occupied by the species on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Areas outside the geographic area currently occupied by the species shall be designated as critical habitat only when a designation limited to its present range would be inadequate to ensure the conservation of the species. ''Conservation'' is defined in section 3(3) of the Act as the use of all methods and procedures necessary to bring endangered or threatened species to the point where listing under the Act is no longer necessary. Regulations under 50 CFR 424.02(j) define ''special management considerations or protection'' to mean any methods or procedures useful in protecting the physical and biological features of the environment for the conservation of listed species.

In order to be included in a critical habitat designation, the habitat must first be ''essential to the conservation of the species.'' Critical habitat designations identify, to the extent known using the best scientific and commercial data available, habitat areas that provide essential life cycle needs of the species (i.e., areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Section 4 requires that we designate critical habitat at the time of listing and based on what we know at the time of the designation. When we designate critical habitat at the time of listing or under short court-ordered deadlines, we will often not have sufficient information to identify all areas of critical habitat. We are required, nevertheless, to make a decision and thus must base our designations on what, at the time of designation, we know to be critical habitat.

Within the geographic area occupied by the species, we will designate only areas currently known to be essential. Essential areas should already have the features and habitat characteristics that are necessary to sustain the species. We will not speculate about what areas might be found to be essential if better information became available or what areas may become essential over time. If the information available at the time of designation does not show that an area provides essential life cycle needs for the species, then the area should not be included in the critical habitat designation. Within the geographical area occupied by the species, we will not designate areas that do not now have the primary constituent elements, as defined at 50 CFR 424.12(b), and that do not now provide essential life cycle needs for the species.

Our regulations state that, ''The Secretary shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species'' (50 CFR 424.12(e)). Accordingly, when the best available scientific and commercial data demonstrate that the conservation needs of the species require the designation of critical habitat outside of occupied areas, we will designate critical habitat in areas outside the geographical area occupied by the species.

The Service's Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that decisions made by the Service represent the best scientific and commercial data available. It requires Service biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing package for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, and biological assessments or other unpublished materials (i.e., gray literature).

Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that the designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, it should be understood that critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the section 9 take prohibition, as determined on the basis of the best available information at the time of the action. We specifically anticipate that federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Section 4(b)(2) of the Act requires us to base critical habitat proposals on the best scientific and commercial data available after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of excluding those areas outweigh the benefits of including the areas within the critical habitat, provided the exclusion will not result in the extinction of the species.

Methods

The proposed areas of critical habitat described below constitute our best assessment of the areas needed for the conservation and recovery of the Carolina heelsplitter in accordance with the goals outlined in our recovery plan for the species (Service 1997) and are based on the best scientific and commercial information currently available to us concerning the species' known present and historical range, habitat, biology, and threats. All of the areas we propose to designate as critical habitat are within what we believe to be the geographical area occupied by the Carolina heelsplitter, include all known surviving occurrences of the species, and are essential for the conservation of the species. These proposed areas are distributed throughout the species' range with at least one occurring in the Catawba, Pee Dee, and Savannah river systems. To the extent feasible, we will continue, with the assistance of other Federal, State, and private researchers, to conduct surveys and research on the species and its habitat. If new information becomes available indicating that other areas within the Carolina heelsplitter's historical range are essential to the conservation of the species, we will revise the proposed critical habitat or designated critical habitat for the Carolina heelsplitter accordingly.

Primary Constituent Elements

In accordance with sections 3(5)(A)(i) and 4(b)(1)(A) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat we are required to base critical habitat determinations on the best scientific and commercial data available and to consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species and that may require special management considerations or protection. Such requirements include, but are not limited to: space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distribution of a species.

When considering areas for designation as critical habitat, we are required to focus on the principal biological and physical constituent elements within the defined area that are essential to the conservation of the species (50 CFR 424.12 (b)). Although additional information is needed to better define the habitat requirements of the species, particularly the microhabitat requirements, all of the stream reaches that support occurrences of the Carolina heelsplitter are free flowing (no major impoundments) and natural (have not been channelized or otherwise significantly altered), and are not associated with (located a substantial distance from) significant point (discharges) and non-point (runoff) sources of pollutants. Although the species has been observed in a variety of substrata (see ''Background'' section), it has only been recorded from stable pockets of substrata in stream reaches with stable, well-vegetated stream bank and riparian areas, and in substrata without heavy accumulations of silt. Based on the best available information, the primary constituent elements essential for the conservation of the Carolina heelsplitter are:

1. Permanent, flowing, cool, clean water;
2. Geomorphically stable stream and river channels and banks;
3. Pool, riffle, and run sequences within the channel;
4. Stable substrata with no more than low amounts of fine sediment;
5. Moderate stream gradient;
6. Periodic natural flooding; and
7. Fish hosts, with adequate living, foraging, and spawning areas for them.

Areas Proposed for Designation as Critical Habitat

The Service's recovery plan (1997) for the Carolina heelsplitter states that the species will be considered for delisting (recovered) when there exists a total of six distinct, viable populations of the species that meet the criteria outlined in the recovery plan. Based on the most recent survey data for the Carolina heelsplitter (Keferl and Shelly 1988; Keferl 1991: Alderman 1995, 1998a, and 1998b; North Carolina Wildlife Resources Commission 1999 and 2000), there are currently six surviving populations: the Goose Creek/Duck Creek population, Waxhaw Creek population, Gills Creek population, Flat Creek/Lynches River population, Turkey Creek/Mountain Creek/Beaverdam Creek population, and Cuffeytown Creek population (see ''Background'' section). The areas that

we are proposing for designation as critical habitat for the Carolina heelsplitter include habitat for each of these populations. The lateral extent of proposed critical habitat is up to the ordinary high-water line on each bank. In addition, given the threats to the species' habitat discussed in the final listing rule (58 FR 34926) and summarized in the ''Background'' section, we believe these areas may need special management considerations or protection. We are proposing the following areas for designation as critical habitat for the Carolina heelsplitter (see Table 1 below for approximate stream lengths):

Unit 1. Goose Creek and Duck Creek (Pee Dee River System), Union County, North Carolina

Unit 1 encompasses the main stem of Goose Creek, Union County, North Carolina, from the N.C. Highway 218 Bridge, downstream to its confluence with the Rocky River, and the main stem of Duck Creek, Union County, North Carolina, from the Mecklenburg/Union County line downstream to its confluence with Goose Creek. This unit is part of the currently occupied range of the Carolina heelsplitter and, based on the best available information, provides the physical and biological habitat elements necessary for the life cycle needs of the species. In accordance with the recovery goals and criteria outlined in the recovery plan for the Carolina heelsplitter (Service 1997), protection of this unit is essential to the conservation of the species.

Unit 2. Waxhaw Creek (Catawba River System), Union County, North Carolina

Unit 2 encompasses the main stem of Waxhaw Creek, Union County, North Carolina, from the N.C. Highway 200 Bridge, downstream to the North Carolina/South Carolina State line. This unit is part of the currently occupied range of the Carolina heelsplitter and, based on the best available information, provides the physical and biological habitat elements necessary for the life cycle needs of the species. In accordance with the recovery goals and criteria outlined in the recovery plan for the Carolina heelsplitter (Service 1997), protection of this unit is essential to the conservation of the species.

Unit 3. Gills Creek (Catawba River System), Lancaster County, South Carolina

Unit 3 encompasses the main stem of Gills Creek, Lancaster County, South Carolina, from the County Route S–29–875, downstream to the S.C. Route 51 Bridge, east of the city of Lancaster. This unit is part of the currently occupied range of the Carolina heelsplitter and, based on the best available information, provides the physical and biological habitat elements necessary for the life cycle needs of the species. In accordance with the recovery goals and criteria outlined in the recovery plan for the Carolina heelsplitter (Service 1997), protection of this unit is essential to the conservation of the species.

Unit 4. Flat Creek (Pee Dee River System), Lancaster County, South Carolina, and the Lynches River (Pee Dee River System), Lancaster, Chesterfield, and Kershaw Counties, South Carolina

Unit 4 encompasses the main stem of Flat Creek, Lancaster County, South Carolina, from the S.C. Route 204 Bridge, downstream to its confluence with the Lynches River, and the main stem of the Lynches River, Lancaster and Chesterfield Counties, South Carolina, from the confluence of Belk Branch, Lancaster County, northeast (upstream) of the U.S. Highway 601 Bridge, downstream to the S.C. Highway 903 Bridge in Kershaw County, South Carolina. This unit is part of the currently occupied range of the Carolina heelsplitter and, based on the best available information, provides the physical and biological habitat elements necessary for the life cycle needs of the species. In accordance with the recovery goals and criteria outlined in the recovery plan for the Carolina heelsplitter (Service 1997), protection of this unit is essential to the conservation of the species.

Unit 5. Mountain and Beaverdam Creeks (Savannah River System), Edgefield County, South Carolina, and Turkey Creek (Savannah River System), Edgefield and McCormick Counties, South Carolina

Unit 5 encompasses the main stem of Mountain Creek, Edgefield County, South Carolina, from the S.C. Route 36 Bridge, downstream to its confluence with Turkey Creek; Beaverdam Creek, Edgefield County, from the S.C. Route 51 Bridge, downstream to its confluence with Turkey Creek; and Turkey Creek, from the S.C. Route 36 Bridge, Edgefield County, downstream to the S.C. Route 68 Bridge, Edgefield and McCormick Counties, South Carolina. This unit is part of the currently occupied range of the Carolina heelsplitter and, based on the best available information, provides the physical and biological habitat elements necessary for the life cycle needs of the species. In accordance with the recovery goals and criteria outlined in the recovery plan for the Carolina heelsplitter (Service 1997), protection of this unit is essential to the conservation of the species.

Unit 6. Cuffytown Creek (Savannah River System), Greenwood and McCormick Counties, South Carolina

Unit 6 encompasses the main stem of Cuffytown Creek, from the confluence of Horsepen Creek, northeast (upstream) of the S.C. Route 62 Bridge in Greenwood County, South Carolina, downstream to the U.S. Highway 378 Bridge in McCormick County. This unit is part of the currently occupied range of the Carolina heelsplitter and, based on the best available information, provides the physical and biological habitat elements necessary for the life cycle needs of the species. In accordance with the recovery goals and criteria outlined in the recovery plan for the Carolina heelsplitter (Service 1997), protection of this unit is essential to the conservation of the species.

TABLE 1.—APPROXIMATE LENGTHS OF STREAM PROPOSED AS CRITICAL HABITAT FOR THE CAROLINA HEELSPLITTER

State	County	Stream	Length in kilometers (miles)
North Carolina	Union	Goose Creek	7.2 (4.5)
		Duck Creek	8.8 (5.5)
		Waxhaw Creek	19.6 (12.2)
South Carolina	Lancaster	Flat Creek	18.4 (11.4)
		Gills Creek	9.6 (6.0)
	Lancaster, Chesterfield, and Kershaw	Lynches River	23.6 (14.6)
	Edgefield	Mountain Creek	11.2 (7.0)
		Beaverdam Creek	10.8 (6.7)
	Edgefield and McCormick	Turkey Creek	18.4 (11.4)

TABLE 1.—APPROXIMATE LENGTHS OF STREAM PROPOSED AS CRITICAL HABITAT FOR THE CAROLINA HEELSPLITTER—Continued

State	County	Stream	Length in kilometers (miles)
	Greenwood and McCormick	Cuffytown Creek	20.8 (12.9)

Land Ownership

Approximately 6.0 km (3.7 mi) of Beaverdam Creek and 13.6 km (8.5 mi) of Turkey Creek that we are proposing for designation as critical habitat, are bordered by the Sumter National Forest in South Carolina, and 2.4 km (1.5 mi) of Flat Creek that we are proposing for designation as critical habitat, are bordered by the Flat Creek Heritage Preserve, which is managed by the State of South Carolina. The remainder of the areas that we are proposing for designation as critical habitat for the Carolina heelsplitter, with the exception of State road and highway rights-of-way, are under private ownership.

Effects of Critical Habitat Designation

Designating critical habitat does not, in itself, lead to the recovery of a listed species. The designation does not establish a reserve, create a management plan, establish numerical population goals, prescribe specific management practices (inside or outside of critical habitat), or directly affect areas not designated as critical habitat. Specific management recommendations for areas designated as critical habitat are most appropriately addressed in recovery and management plans and through section 7 consultation and section 10 permits.

Critical habitat receives regulatory protection only under section 7 of the Act through the prohibition against destruction or adverse modification of designated critical habitat by actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the adverse modification or destruction of proposed critical habitat. Aside from the protection that may be provided under section 7, the Act does not provide other forms of protection to land designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal land that do not involve a Federal action, the critical habitat designation would not afford any protection under the Act against such activities. Accordingly, the designation of critical habitat on private land will not have any regulatory effect on private or State activities in these areas unless those activities require a Federal permit, authorization, or funding.

Section 7(a)(4) of the Act and regulations at 50 CFR 402.10 require Federal agencies to confer with us on any action that is likely to result in the destruction or adverse modification of proposed critical habitat. ''Destruction or adverse modification'' is defined as a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. These conferences, which consist of informal discussions, are intended to assist responsible agencies and the applicant, if applicable, in identifying and resolving potential conflicts. Conference reports resulting from these discussions provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory. We may issue a formal conference opinion if requested by a Federal agency. Formal conference opinions on proposed critical habitat are prepared according to 50 CFR 402.14 as if critical habitat were designated. We may adopt the formal conference opinion as the biological opinion when the critical habitat is designated if no significant new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

If this proposal is finalized, activities on Federal land, activities on private or State land carried out by a Federal agency, or activities receiving funding or requiring a permit from a Federal agency that may affect the designated critical habitat of the Carolina heelsplitter will require consultation under section 7 of the Act. However, section 7 of the Act also requires Federal agencies to ensure that actions they authorize, fund, or carry out do not jeopardize the continued existence of listed species and to consult with us on any action that may affect a listed species. Activities that jeopardize listed species are defined as actions that ''directly or indirectly, reduce appreciably the likelihood of both the survival and recovery of a listed species' (50 CFR 402.02). Federal agencies are prohibited from jeopardizing listed species through their actions, regardless of whether critical habitat has been designated for the species. Where critical habitat is designated, section 7 also requires Federal agencies to ensure that activities they authorize, fund, or carry out do not result in the destruction or adverse modification of designated critical habitat. Activities that destroy or adversely modify critical habitat are defined as an action that ''appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species'' (50 CFR 402.02). Common to the definitions of both ''jeopardy'' and ''destruction or adverse modification of critical habitat'' is the concept that the likelihood of both the survival and recovery of the species are appreciably reduced by the action. Because of the small size of the majority of the surviving populations of the Carolina heelsplitter, the species' restricted range, and the limited amount of suitable habitat available to the species, actions that are likely to destroy or adversely modify critical habitat are also likely to jeopardize the species. Accordingly, even though Federal agencies will be required to evaluate the potential effects of their actions on any habitat that is designated as critical habitat for the Carolina heelsplitter, this designation would not be likely to change the outcome of section 7 consultations.

Section 4(b)(8) of the Act requires us to briefly evaluate, in any proposed or final regulation that designates critical habitat, those activities that may adversely modify such habitat or may be affected by such designation. Activities that may destroy or adversely modify critical habitat are, as discussed above, those that alter the primary constituent elements to the extent that the value of critical habitat for both the survival and recovery of the Carolina heelsplitter is appreciably diminished. This may include any activity, regardless of the activity's location in relation to designated or proposed critical habitat, that would significantly alter the natural flow regime, channel morphology or geometry, or water chemistry or temperature of any of the six proposed critical habitat units, as described by the constituent elements, or any activity that could result in the significant discharge or deposition of sediment, excessive nutrients, or other organic or

chemical pollutants into any of the six proposed critical habitat units. Such activities include (but are not limited to) carrying out or issuing permits, authorization, or funding for reservoir construction; stream alterations; wastewater facility development; hydroelectric facility construction and operation; pesticide/herbicide applications; forestry operations; and road, bridge, and utility construction. These same activities also have the potential to jeopardize the continued existence of the Carolina heelsplitter, and Federal agencies are already required to consult with us on these types of activities, or any other activity, that may affect the species.

Send your requests for copies of the regulations on listed wildlife, inquiries about prohibitions and permits, or questions regarding whether specific activities will constitute adverse modification of critical habitat, to the U.S. Fish and Wildlife Service, Asheville Field Office, 160 Zillicoa Street, Asheville, North Carolina 28801.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas as critical habitat upon reaching a determination that the benefits of such exclusion outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species. We will conduct an analysis of the economic impacts of designating the areas identified above as critical habitat prior to a final determination. When a draft economic analysis is completed, we will announce its availability with a notice in the **Federal Register** and will open a 30-day comment period at that time.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

1. The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

2. Specific information on the numbers and distribution of the Carolina heelsplitter and what habitat is essential to the conservation of the species and why;

3. Information on specific characteristics of habitat essential to the conservation of the Carolina heelsplitter;

4. Land-use practices and current or planned activities in the subject areas and their possible effects on proposed critical habitat;

5. Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or families;

6. Economic and other values associated with designating critical habitat for the Carolina heelsplitter, such as those derived from nonconsumptive uses (e.g., hiking, camping, bird-watching, enhanced watershed protection, improved air quality, ''existence values,'' and reductions in administrative costs); and

7. Potential adverse effects to the Carolina heelsplitter and/or its habitat associated with designating critical habitat for the species; e.g., increased risk to the species from collecting, vandalism, or the destruction of its habitat.

Please submit electronic comments in ASCII file format and avoid the use of special characters and encryption. Please also include ''Attn: [RIN 1018–AH31]'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Asheville Field Office (see **ADDRESSES** section).

Our practice is to make all comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold also from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of this review is to ensure that listing decisions are based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the 60-day comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. If you wish to request a hearing, you must file your request in writing within 45 days of the date of this proposal. Send your request to the State Supervisor, Asheville Field Office (see ''Addresses'' section). We will give written comments submitted during the comment period equal consideration with those comments presented at a public hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations/notices that are easy to understand. We invite your comments on how to make this notice easier to understand, including answers to questions such as the following: (1) Are the requirements in the notice clearly stated? (2) Does the notice contain unnecessary technical language or jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the notice? (5) What else could we do to make the notice easier to understand?

Send a copy of any comments that concern how we could make this notice easier to understand to the Asheville Field Office (see **ADDRESSES** section).

Required Determinations

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, this rule is a

significant regulatory action and has been reviewed by the Office of Management and Budget (OMB).

(a) In the economic analysis, we will determine whether this rule will have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. The Carolina heelsplitter was listed as an endangered species in 1993. Since that time we have conducted, and will continue to conduct, formal and informal section 7 consultations with other Federal agencies to ensure that their actions will not jeopardize the continued existence of the Carolina heelsplitter.

Under the Act, critical habitat may not be adversely modified by a Federal agency action; critical habitat does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise sponsored or permitted by a Federal agency (see Table 1 below). Section 7 of the Act requires Federal agencies to ensure that they do not jeopardize the continued existence of the species. Based on our experience with the species and its needs, we believe that any Federal action or authorized action that could potentially cause an adverse modification of the proposed critical habitat would currently be considered as ''jeopardy'' to the species under the Act.

Accordingly, we do not expect the designation of areas as critical habitat within the geographical range occupied by the species to have any incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding. Non-Federal persons who do not have a Federal ''sponsorship'' of their actions are not restricted by the designation of critical habitat. (However, they continue to be bound by the provisions of the Act concerning ''take'' of the species, which came into play in 1993 when the species was listed as endangered.)

(b) This rule will not create inconsistencies with other agencies' actions. Federal agencies have been required to ensure that their actions do not jeopardize the continued existence of the Carolina heelsplitter since the listing in 1993. As shown in Table 2 (below), no additional effects on agency actions are anticipated to result from the critical habitat designation. However, we will continue to review this proposed action for any inconsistencies with other Federal agency actions.

TABLE 2.—IMPACTS OF CAROLINA HEELSPLITTER LISTING AND CRITICAL HABITAT DESIGNATION

Categories of activities	Activities potentially affected by species listing only [1]	Additional activities potentially affected by critical habitat designation [2]
Federal Activities Potentially Affected.[3]	Activities such as carrying out or issuing permits, authorization, or funding for reservoir construction; stream alterations; wastewater facility development; hydroelectric facility construction and operation; pesticide/herbicide applications; forestry operations; road, bridge, and utility construction; or other activities that could result in direct or indirect impacts to the Carolina heelsplitter and/or its habitat.	None.
Private and other non-Federal Activities Potentially Affected.[4]	Activities occurring on Federal land or that require a Federal action (permit, authorization, or funding) and that involve activities such as those listed above that could result in ''take'' of the Carolina heelsplitter or damage or destruction of its habitat.	None.

[1] This column represents the activities potentially affected by listing the Carolina heelsplitter as an endangered species (June 30, 1993; 58 FR 34926) under the Endangered Species Act.
[2] This column represents the effects on activities resulting from critical habitat designation beyond the effects attributable to the listing of the species.
[3] Activities initiated by a Federal agency.
[4] Activities initiated by a private or other non-Federal entity that may need Federal authorization or funding.

(c) The proposed rule, if made final, will not significantly impact entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies currently are required to ensure that their activities do not jeopardize the continued existence of the species, and we do not anticipate that the adverse modification prohibition (resulting from the critical habitat designation) will have any incremental effects in areas of proposed critical habitat.

(d) OMB has determined that this rule will raise novel legal or policy issues and, as a result, this rule has undergone OMB review.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

In the draft economic analysis (under section 4 of the Act), we will determine whether the designation of critical habitat will have a significant effect on a substantial number of small entities. As discussed under ''Regulatory Planning and Review'' above, this rule is not expected to result in any restrictions in addition to those currently in existence for areas of proposed critical habitat.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

In the economic analysis, we will determine whether the designation of critical habitat will cause (a) any effect on the economy of $100 million or more, (b) any increases in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographical regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. As discussed above, we anticipate that the designation of critical habitat will not have any additional effects on these activities in areas of critical habitat that are within the geographical range occupied by the species.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this rule is not expected to significantly affect energy supplies, distribution, or use, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

a. This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. Small governments will not be affected unless they propose an action requiring Federal funds, permits, or other authorization. Any such activity will require that the involved Federal agency ensure that the action will not adversely modify or destroy designated critical habitat.

b. This rule will not produce a Federal mandate on State, local, or tribal governments or the private sector of $100 million or greater in any year; that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no new obligations on State or local governments.

Takings

In accordance with Executive Order 12630, this rule does not have significant takings implications, and a takings implication assessment is not required. This proposed rule, if made final, will not ''take'' private property. The designation of critical habitat affects only Federal agency actions. Federal actions on private land could be affected by the critical habitat designation; however, we expect no regulatory effect from this designation because all proposed areas are considered to be within the geographical range occupied by the species and would be reviewed under both the jeopardy and adverse modification standards under section 7 of the Act.

This rule will not increase or decrease the current restrictions on private property concerning taking of the Carolina heelsplitter as defined in section 9 of the Act and its implementing regulations (50 CFR 17.31). Additionally, critical habitat designation does not preclude the development of habitat conservation plans and the issuance of incidental take permits. Any landowner in areas that are included in the designated critical habitat will continue to have opportunity to use his or her property in ways consistent with the survival of the Carolina heelsplitter.

Federalism

In accordance with Executive Order 13132, this rule does not have significant federalism effects. A Federalism Assessment is not required. In keeping with Department of the Interior policy, we requested information from, and coordinated the development of this critical habitat proposal with, appropriate State natural resources agencies in North Carolina and South Carolina. We will continue to coordinate any future designation of critical habitat for the Carolina heelsplitter with the appropriate State agencies. The designation of critical habitat for the Carolina heelsplitter imposes few, if any, additional restrictions to those currently in place and therefore has little incremental impact on State and local governments and their activities. The designation may provide some benefit to these governments in that the areas essential to the conservation of the species are more clearly defined and, to the extent currently feasible, the primary constituent elements of the habitat necessary to the survival of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, doing so may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The Office of the Solicitor will review the final determination for this proposal. We will make every effort to ensure that the final determination contains no drafting errors, provides clear standards, simplifies procedures, reduces burdens, and is clearly written, such that the risk of litigation is minimized.

Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq*. This rule will not impose new record-keeping or reporting requirements on State or local governments, individuals, businesses, or organizations.

National Environmental Policy Act

We have determined that we do not need to prepare an Environmental Assessment or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we understand that federally recognized Tribes must be related to on a Government-to-Government basis. We are not aware of any Tribal lands essential for the conservation of the Carolina heelsplitter. Therefore, we are not proposing to designate critical habitat for the Carolina heelsplitter on Tribal lands.

References Cited

A complete list of all references cited in this proposed rule is available upon request from the Asheville Field Office (see **ADDRESSES** section).

Author

The primary author of this document is John Fridell (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h), by revising the entry for the ''Heelsplitter, Carolina'' under ''CLAMS'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Cricital habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	*
CLAMS							
*	*	*	*	*	*	*	*
Heelsplitter, Carolina	*Lasmigona decorata*	U.S.A. (NC, SC)	Entire	E	505	17.95(f)	NA
*	*	*	*	*	*	*	*

3. Amend § 17.95(f) by adding critical habitat for the Carolina heelsplitter (*Lasmigona decorata*) in the same alphabetical order as the species occurs in 17.11(h).

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(f) *Clams and snails.*

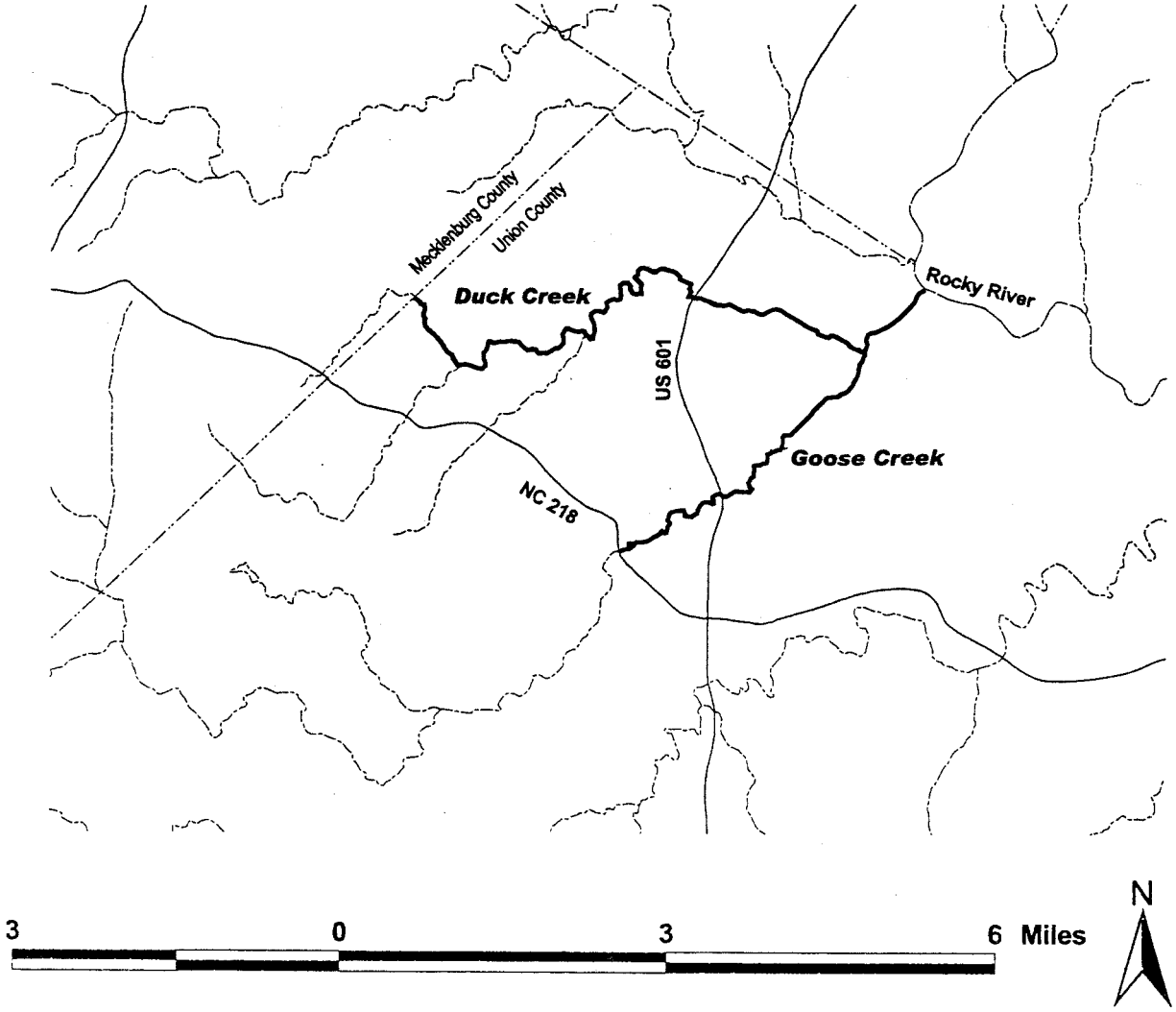
* * * * *

Carolina Heelsplitter *(Lasmigona decorata)*

1. Critical habitat units are described below and depicted in the maps that follow, with the lateral extent of each designated unit bounded by the ordinary high-water line:

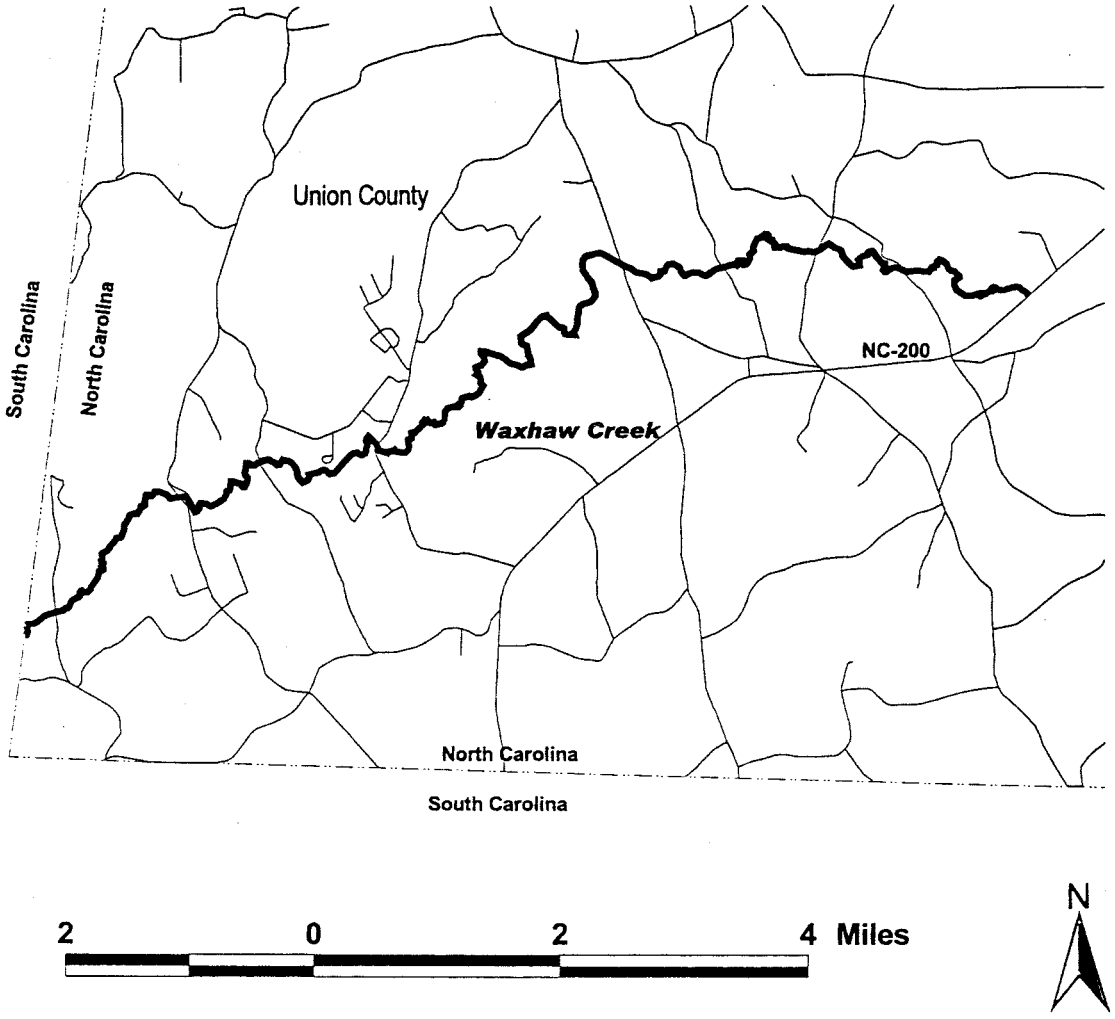
Unit 1: Union County, North Carolina—main stem of Goose Creek (Pee Dee River system) from the N.C. Highway 218 Bridge, downstream to its confluence with the Rocky River, and the main stem of Duck Creek, from the Mecklenburg/Union County line, downstream to its confluence with Goose Creek.

Unit 1. Goose Creek and Duck Creek (Pee Dee River System), Union County, North Carolina.



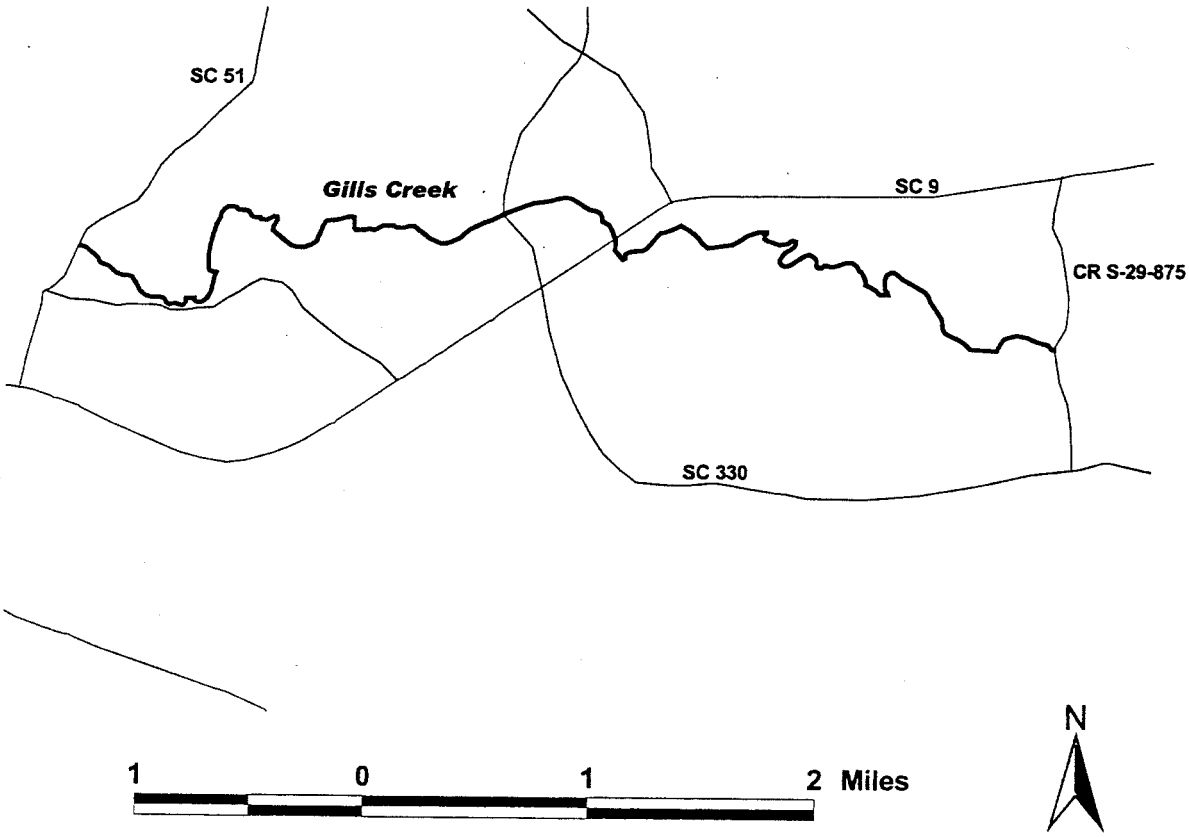
Unit 2. Union County, North Carolina—main stem of Waxhaw Creek (Catawba River system) from the N.C. Highway 200 Bridge, downstream to the North Carolina/South Carolina State line.

Unit 2. Waxhaw Creek (Catawba River System), Union County, North Carolina.



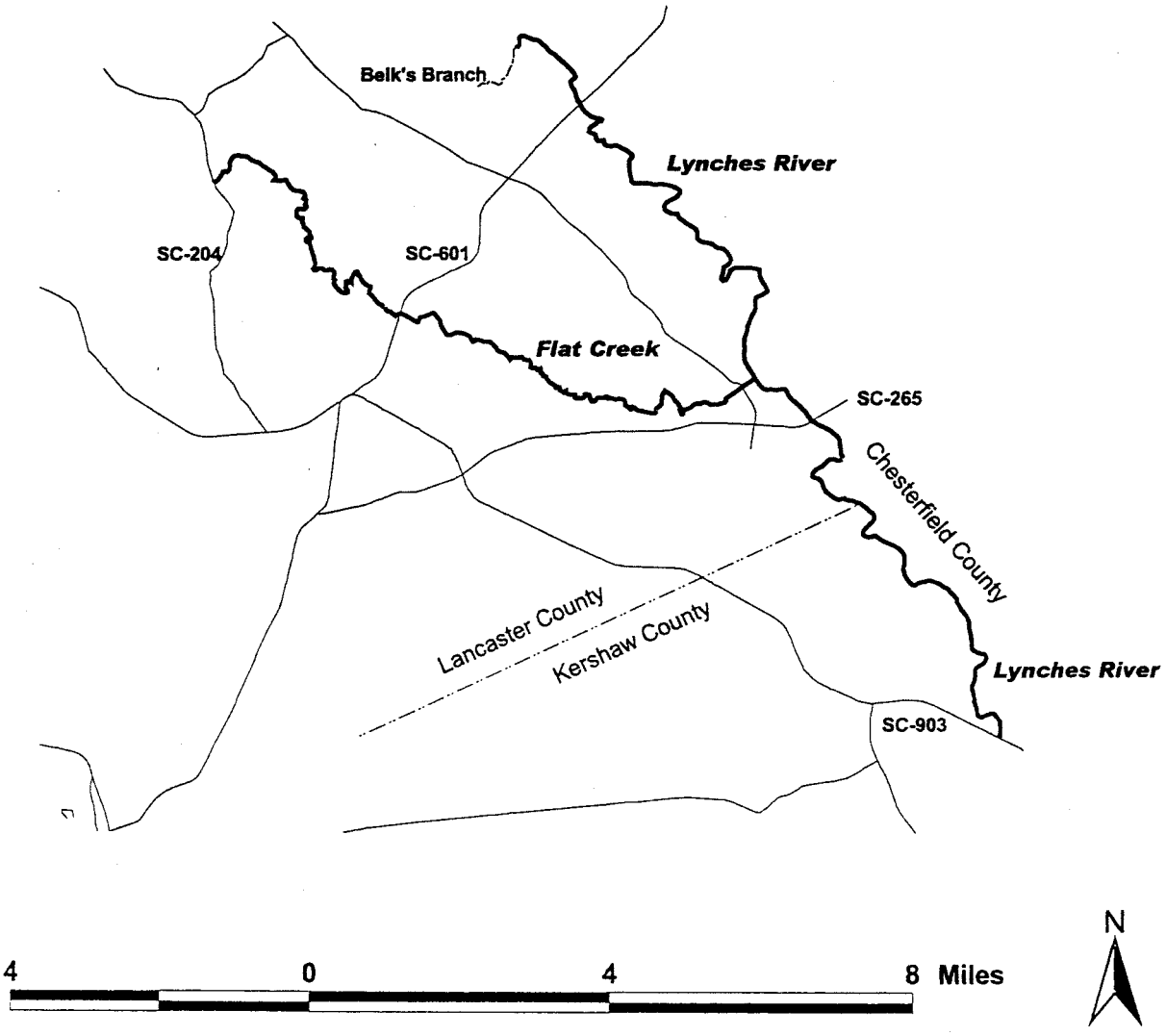
Unit 3. Lancaster County, South Carolina—main stem of Gills Creek (Catawba River system) from the County Route S–29–875, downstream to the S.C. Route 51 Bridge, east of the city of Lancaster.

Unit 3. Gills Creek (Catawba River System), Lancaster County, South Carolina.



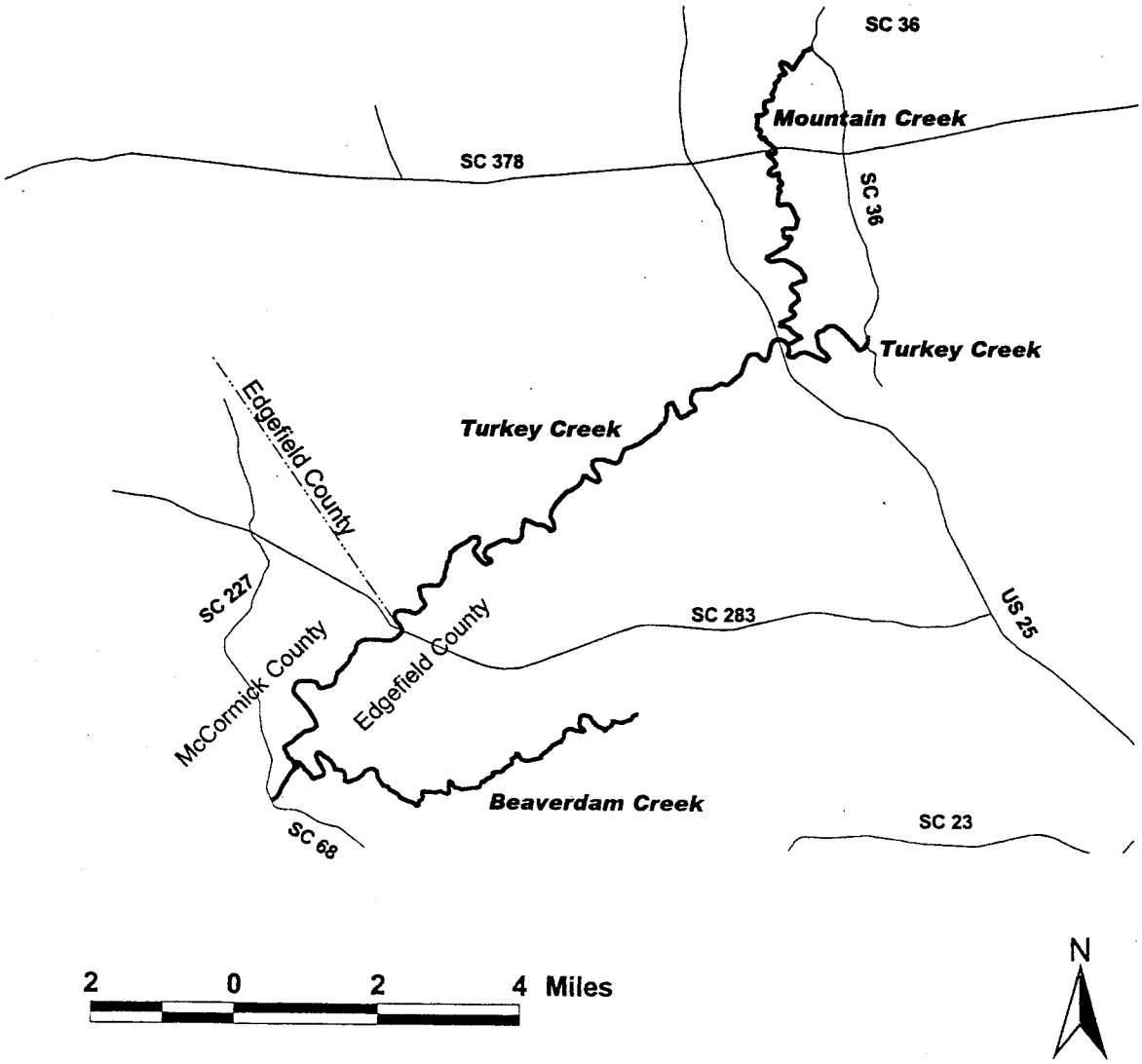
Unit 4. Lancaster, Chesterfield, and Kershaw Counties, South Carolina—main stem of Flat Creek (Pee Dee River system), Lancaster County, from the S.C. Route 204 Bridge, downstream to its confluence with Lynches River, and the main stem of the Lynches River, Lancaster and Chesterfield Counties, from the confluence of Belk Branch, Lancaster County, northeast (upstream) of the U.S. Highway 601 Bridge, downstream to the S.C. Highway 903 Bridge in Kershaw County.

Unit 4. Flat Creek and Lynches River (Pee Dee River System), Lancaster and Kershaw Counties, South Carolina.



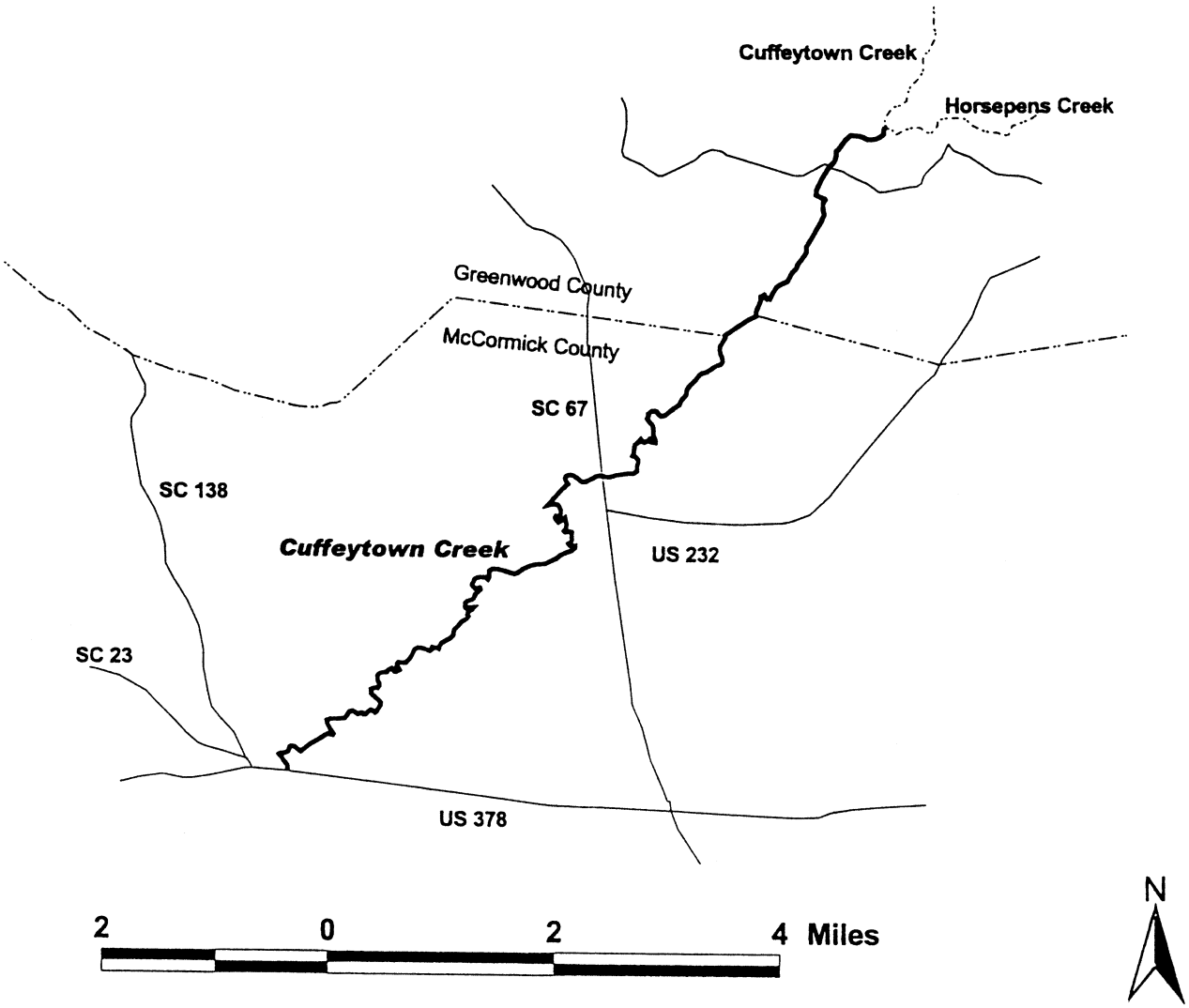
Unit 5. Edgefield and McCormick Counties, South Carolina, main stem of Mountain Creek (Savannah River system), Edgefield County, South Carolina, from the S.C. Route 36 Bridge, downstream to its confluence with Turkey Creek; Beaverdam Creek, Edgefield County, from the S.C. Route 51 Bridge, downstream to its confluence with Turkey Creek; and Turkey Creek, from the S.C. Route 36 Bridge, Edgefield County, downstream to the S.C. Route 68 Bridge, Edgefield and McCormick Counties.

Unit 5. Mountain and Beaverdam Creeks (Savannah River system), Edgefield County, South Carolina, and Turkey Creek (Savannah River system) , Edgefield and McCormick Counties, South Carolina.



Unit 6. Greenwood and McCormick Counties, South Carolina—main stem of Cuffytown Creek (Savannah River system), from the confluence of Horsepen Creek, northeast (upstream) of the S.C. Route 62 Bridge in Greenwood County, downstream to the U.S. Highway 378 Bridge in McCormick County.

Unit 6. Cuffeytown Creek (Savannah River System), Greenwood and McCormick Counties, South Carolina.



2. Within these areas, the primary constituent elements include:

(i) Permanent, flowing, cool, clean water;

(ii) Geomorphically stable stream and river channels and banks;

(iii) Pool, riffle, and run sequences within the channel;

(iv) Stable substrata with no more than low amounts of fine sediment;

(v) Moderate stream gradient;

(vi) Periodic natural flooding; and

(vii)Fish hosts, with adequate living, foraging, and spawning areas for them.

Dated: June 28, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–16867 Filed 7–10–01; 8:45 am]

BILLING CODE 4310–55–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 062901B]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 3-day Council meeting, on July 24 through July 26, 2001, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, Wednesday, and Thursday, July 24, 25, and 26, 2001. The meeting will begin at 1:00 p.m. on Tuesday and 8:30 a.m. on Wednesday and Thursday.

ADDRESSES: The meeting will be held at the Holiday Inn by the Bay, 88 Spring Street, Portland, ME 04101; telephone (207) 775–2311. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Tuesday, July 24, 2001

After introductions, the Council meeting will begin with reports on recent activities from the Council Chairman and Executive Director, the NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and representatives of the U.S. Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. A brief period will be held for public comment on any relevant subject related to Council business. The Herring Committee will discuss and ask the Council to approve initial action on Framework Adjustment 1 to the Atlantic Herring Fishery Management Plan (FMP). The primary measures under consideration would split the total allowable catch (TAC) for Management Area 1A into two periods: January through May (6,000 mt) and June through December (54,000 mt plus any unused portion from January to May). When 95 percent of the quota for either period is projected to be reached, directed fishing would cease in Area 1A and a 2,000-pound trip limit would take effect. A review of the discussions between U.S. and Canadian fisheries representatives serving on the Transboundary Management Guidance Committee will follow the Herring Committee Report.

Wednesday, July 25, 2001

The day will start with a presentation on bioeconomic modeling and its application to fisheries management, using the American lobster fishery as a case study. Northeast Fisheries Science Center staff will hold a public review workshop to present the advisory from the 33rd Stock Assessment Workshop concerning the status of Gulf of Maine cod, redfish, and white hake. In its report, the Groundfish Committee intends to ask the Council to approve final action on Framework Adjustment 36 to the Northeast Multispecies FMP. Measures under consideration would address Gulf of Maine cod discards and mortality, an extension of or adjustment to the Western Gulf of Maine Closed Area, tuna purse seine access to the groundfish closed areas, and an expansion of the area in which the northern shrimp fishery is allowed.

Thursday, July 26, 2001

During Thursday's session, the Sea Scallop Committee will ask the Council to approve draft management measures to be analyzed in the Draft Supplemental Environmental Impact Statement for Amendment 10 to the Sea Scallop FMP. The discussion will include review of Scallop Committee, Plan Development Team and Advisory Panel recommendations. Measures under consideration include options that would address scallop area rotation and management; managing scallop catch from re-opened and open fishing areas; gear modifications to reduce scallop and finfish bycatch; general category permit management proposals; framework adjustments and annual specifications; programs to fund and administer scallop research and on-board observers; data collection and monitoring; and other measures. The Council also will discuss and may approve a control date for scallop fishing by vessels not on a scallop day-at-sea. A control date may be necessary because the Council is considering whether to limit the access of vessels holding general category permits as part of Amendment 10 to the Scallop FMP. The control date could apply to any vessel with or without a general category permit and/or to vessels that have a limited access scallop permit and that fish for sea scallops while not on a day-at-sea. Prior to meeting adjournment, the Red Crab Committee will provide an update on progress concerning development a Red Crab FMP, including management alternatives, an overfishing definition, and the collection of social and economic information.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

The New England Council will consider public comments at a minimum of two Council meetings before making recommendations to the National Marine Fisheries Service Regional Administrator on any framework adjustment to a fishery

management plan. If she concurs with the adjustment proposed by the Council, the Regional Administrator has the discretion to publish the action either as proposed or final regulations in the **Federal Register**. Documents pertaining to framework adjustments are available for public review 7 days prior to a final vote by the Council.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: July 3, 2001

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–17366 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 133
Wednesday, July 11, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alaska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Alaska Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 8:00 p.m. Wednesday, on August 22, 2001, at the Sheraton Anchorage Hotel, 401 East 6th Avenue, Anchorage, Alaska 99501. The Advisory Committee will hold a briefing session in preparation for the two-day community forum.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 3, 2001.

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–17341 Filed 7–10–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alaska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Alaska Advisory Committee to the Commission will convene at 9:00 a.m. and recess at 7:00 p.m. on Thursday, August 23, 2001, at the Sheraton Anchorage Hotel, 401 East 6th Avenue, Anchorage, Alaska 99501. The Committee will reconvene at 9:00 a.m. and adjourn at 7:00 p.m. on Friday, August 24, 2001, at the same location. The purpose of the community forum both days is to obtain information on discrimination faced by minority communities in Alaska.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 3, 2001.

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–17342 Filed 7–10–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 8:45 a.m. and adjourn at 12:30 p.m. on Friday, July 27, 2001, at the U.S. Commission on Civil Rights, 5th Floor Conference Room, 624 9th Street NW, Washington, DC 20425. The Advisory Committee will discuss its March 15, 2001 forum on equal access to financial opportunities in the District of Columbia, review members' draft summaries of panelist presentations, and plan future activities. In preparation for the Committee's planned activity on police-community relations, the Committee will invite representatives from the District's newly formed Office of Citizen Complaint Review, the Metropolitan Police Department, and community advocacy groups.

Persons desiring additional information, or planning a presentation to the Committee, should contact Chairperson Rev. Lewis Anthony, 202–483–3262, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 3, 2001.

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–17343 Filed 7–10–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on Wednesday, August 29, 2001, at the Fontainebleau Hilton, 4441 Collins Avenue, Miami, Florida 33140. The purpose of the meeting is to discuss the US Department of Housing and Urban Development's Hope VI program to determine the extent to which the program impacts public housing in Miami with the local housing authority officials, HUD representatives, civil rights leaders, and tenant officials.

Persons desiring additional information, or planning a presentation to the Committee, should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 3, 2001.

Edward A. Hailes, Jr.,

General Counsel.

[FR Doc. 01–17344 Filed 7–10–01; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Current Industrial Reports (Wave II Mandatory).

Form Number(s): M311J, M311L, M313N, M313P, MQ314X, MQ315A, MQ333W, MA313F, MA313K, MA314Q, MA316A, MA321T, MA325G, MA333L, MA333P, MA334M, MA334Q, MA334S, MA335E, and MA335J.

Agency Approval Number: 0607–0395.

Type of Request: Revision of a currently approved collection.

Burden: 16,954 hours.

Number of Respondents: 11,887.

Avg Hours Per Response: 1.43 hours.

Needs and Uses: The Census Bureau conducts a series of monthly, quarterly, and annual surveys as part of the Current Industrial Reports (CIR) program. The CIR program focuses primarily on the quantity and value of shipments of particular products and occasionally with data on production and inventories; unfilled orders, receipts, stocks and consumption; and comparative data on domestic production, exports, and imports of the products they cover. Government agencies, business firms, trade associations, and private research and consulting organizations use these data to make trade policy, production, and investment decisions.

Due to the large number of surveys conducted in the CIR program, for clearance purposes, the CIR surveys are divided into ''waves.'' There are three waves and each wave contains a voluntary and mandatory clearance package, making 6 separate clearances. Each year, one wave (2 clearance packages) is submitted for review. In this request, we are discontinuing MA325B, ''Inorganic Fertilizer Materials and Related Products,'' and MA325C, ''Industrial Gases'' due to budgetary reductions.

Affected Public: Business or other for-profit organizations.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 61, 81, 182, 224, and 225.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202)482–3129, Department of Commerce, room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *mclayton@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: July 6, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–17339 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2002 Economic Census Ownership or Control Flier.

Form Number(s): NC–99510, NC–99520, NC–99521, NC–99530, NC–99542, NC–99550, NC–99553, NC–99554, NC–99557, NC–99562, NC–99563, NC–99572, NC–99581.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 48,846 hours in FY 2003.

Number of Respondents: 2,442,300.

Avg Hours Per Response: 1.2 minutes.

Needs and Uses: Accurate and reliable industry and geographic codes are critical to the Census Bureau's economic statistical programs. As single-establishment firms are acquired or begin operating at additional locations, it is necessary to update the Bureau's Business Register (Standard Statistical Establishment Listing (SSEL). During the 2002 Economic Census, the Ownership Or Control fliers will be used to link establishments that are not single-establishment firms to their parent companies or create new multi-establishment firms when they operate at more than one location. In prior censuses these questions were part of the economic census questionnaires and used to determine if single-establishment firms were either owned or controlled by another company or if they operate at more than one location. For the 2002 Economic Census we have removed these questions from economic census questionnaires and will include them on a separate flier that will only be inserted in economic census questionnaire mailout packages sent to single-establishment firms.

Affected Public: Businesses or other for-profit, individuals or households, not-for-profit institutions, State, local or Tribal government.

Frequency: Every five years.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 131 and 224.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: July 6, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–17340 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 29–2001]

Foreign-Trade Zone 25—Broward County, Florida; Proposed Foreign-Trade Subzone, Motiva Enterprises LLC (Petroleum Product Storage), Broward County, Florida

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Broward County, Florida, grantee of FTZ 25, requesting special-purpose subzone status for the petroleum product storage facility of Motiva Enterprises, LLC (Motiva), located in the Fort Lauderdale, Florida, area. The application was submitted

pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 29, 2001.

The Motiva facility (34 acres) is located at 3 sites with connecting pipelines in Fort Lauderdale, Florida, (Broward County): *Site 1* (9 tanks, 550,000 barrel capacity, 18 acres)—South Terminal product storage facility is located at 1200 S.E. 28th Street; *Site 2* (15 tanks, 600,000 barrel capacity, 15 acres)—East Terminal product storage facility is located at 1500 S.E. 26th Street; *Site 3*—dock manifolds at berths 7, 9, and 13, Port Everglades, leased from Cliff Berry & Associates.

The storage facility is primarily used for the receipt, storage, blending and distribution of jet fuel by pipeline to the Miami and Fort Lauderdale International Airports. The company also uses the facility to store and distribute gasoline, diesel fuel, distillate fuels, and blending stocks. Some of the products are or will be sourced from abroad or from U.S. refineries under FTZ procedures.

The Motiva connecting pipelines are used for routing of petroleum products to the storage terminals from arriving vessels at the dock manifolds. The Motiva South and East Terminals have no direct connections with each other and product may be pumped between the two terminals through the Motiva pipeline connected through the dock manifolds.

Zone procedures would exempt Motiva from Customs duties and federal excise taxes on foreign status jet fuel used for international flights. On domestic sales, the company would be able to defer Customs duty payments until the products leave the facility. The application indicates that the savings from FTZ procedures would help improve the facility's international competitiveness.

No specific manufacturing request is being made at this time. Such a request would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below.

The closing period for their receipt is September 10, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 24, 2001).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 200 E. las Olas Blvd. (Sun Sentinel Bldg.), Suite 1600, Ft. Lauderdale, Florida 33301–2284

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: June 29, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–17372 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 30–2001]

Foreign-Trade Zone 57—Charlotte, North Carolina; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the North Carolina Department of Commerce, grantee of FTZ 57, requesting authority to expand its general-purpose zone site to include additional sites in Alexander, Burke, Caldwell and Catawba Counties, North Carolina. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on July 3, 2001.

FTZ 57 was approved on April 28, 1980 (Board Order 156, 45 FR 30466, 5/8/80) and expanded on September 23, 1982 (Board Order 199, 47 FR 43103, 9/30/82). The zone project currently includes four general-purpose zone sites: *Site 1* (100,000 sq. ft.)—at 11425 Granite Street, Mecklenburg County; *Site 1A* (23 acres)—located at 1411 and 1701 Continental Boulevard, Mecklenburg County; *Site 2* (137,368 sq. ft.)—located at 14620 Carowinds Boulevard, Mecklenburg County; and, *Site 3* (26 acres)—located at International Airport Center, 3401 International Airport Drive, Charlotte.

The applicant is now requesting authority for a major change to its zone plan that would extend zone services on a regional basis. The proposal involves expanding its zone project to include eight sites (3,144 acres) in the Counties of Burke, Caldwell, Alexander and Catawba: *Proposed Site 4* (1,600 acres, 14 parcels)—proposed industrial park (Great Meadows), located at Interstate 40 in Burke County; *Proposed Site 5* (78 acres, 2 parcels): Parcel 1 (40 acres)—Lenoir Business Park and Parcel 2 (38 acres)—J&M Industrial Park, located on NC Highway 18 in Lenoir (Caldwell County); *Proposed Site 6* (160 acres)—Alexander County Rail Park, located on NC Highway 90, one mile east of Taylorsville (Alexander County); *Proposed Site 7* (655 acres)—Hickory Regional Airport/Lakepark, located on Clement Boulevard in the City of Hickory (Catawba/Burke Counties); *Proposed Site 8* (1 acre)—Conwareco Logistics, Inc., warehouse facility, 1070 Main Avenue NW in Hickory (Catawba County); *Proposed Site 9* (9 acres, 3 parcels): Parcel 1 (4 acres)—Diamante Group LLC warehouse/industrial facility at 406 20th Street SE; Parcel 2 (2 acres)—LT2 at 504 20th Street SE; and, Parcel 3 (3 acres)—Hickory Throwing Company at 520 20th Street SE in Hickory (Catawba County); *Proposed Site 10* (330 acres)—within the 700-acre Conover West Business Park in Hickory (Catawba County); and, *Proposed Site 11* (311 acres, 11 parcels)—City of Newton industrial park, Newton (Catawba County). No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 10, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 24, 2001).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 521 East Morehead Street, Suite 435, Charlotte, NC 28202

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: July 3, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–17373 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 31–2001]

Foreign-Trade Zone 171—Liberty County, Texas; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Liberty County Economic Development Corporation, grantee of FTZ 171, requesting authority to expand its zone in Liberty County, Texas, adjacent to the Houston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended, (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on July 3, 2001.

FTZ 171 was approved on January 4, 1991 (Board Order 501, 56 FR 1166, 1/11/91) and expanded on August 9, 1999 (Board Order 1049, 64 FR 46181, 8/24/99). The zone project currently consists of 5 sites (834 acres) in Liberty County: *Site* 1 (150 acres)—City of Cleveland's International Industrial Park on Highway FM 2025 west of U.S. Highway 59; *Site* 2 (50 acres) located between West Bay Road and FM 1405 within the western portion of the 15,000-acre Cedar Crossing Industrial Park in the City of Baytown (Chambers County) (expires 7/15/02); *Site* 3 (27 acres)—industrial park on the Trinity River some 2 miles south of U.S. Highway 90, City of Liberty; *Site* 4 (24 acres)—within the Cleveland Municipal Airport facility, Highway FM 787, Liberty County; and, *Site* 5 (583 acres)—Sjolander Plastics Storage Railyard facility, adjacent to Highway 146, approximately 2 miles south of Dayton (Liberty County).

The applicant is now requesting authority to expand existing Site 2 to include an additional 150 acres at the Cedar Crossing Industrial Park in Baytown. A temporary boundary modification was approved on March 16, 2001 (A(27f)–11–2001), removing the original Site 2 at the Port of Liberty County Industrial Park (45 acres) from zone status. The applicant is also requesting that the original Site 2 be restored to zone status and that the Cedar Crossing site be redesignated as Site 6 on a permanent basis. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 10, 2001). Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 24, 2001).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 500 Dallas, #1160, Houston, TX 77002

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: July 3, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–17374 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–822]

Certain Helical Spring Lock Washers From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: We preliminarily determine that sales of certain helical spring lock washers from the People's Republic of China were made below normal value during the period October 1, 1999 through September 30, 2000. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 11, 2001.

FOR FURTHER INFORMATION CONTACT: Sally Hastings or Craig Matney, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3464 or 482–1778, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act) by the Uruguay Round Agreements Act. Unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2000).

Background

On October 19, 1993, the Department published the antidumping duty order on certain helical spring lock washers (HSLWs) from the People's Republic of China (PRC) (58 FR 53914). The Department notified interested parties of the opportunity to request an administrative review of this order on October 20, 2000 (65 FR 63057). The petitioner, Shakeproof Assembly Components Division of Illinois Tool Works, Inc., requested that the Department conduct an administrative review of Zhejiang Wanxin Group Co. Ltd. (ZWG), the predecessor firm to Hang Zhou Spring Washer Co., Ltd. (collectively Hangzhou), on October 31, 2000. The notice of initiation of this administrative review was published on November 30, 2000 (65 FR 71299).

On February 20 and 26, 2001, Hangzhou responded to the Department's January 5, 2001 questionnaire. The Department, on March 27, 2001, provided parties with an opportunity to submit information regarding appropriate surrogate values. On April 20, 2001, both petitioner and Hangzhou submitted surrogate value comments. The Department issued a supplemental questionnaire to Hangzhou on May 17, 2001. Hangzhou submitted its supplemental questionnaire response on June 5, 2001.

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Order

The products covered by the order are HSLWs of carbon steel, of carbon alloy steel, or of stainless steel, heat-treated or non-heat-treated, plated or non-plated, with ends that are off-line. HSLWs are designed to: (1) Function as a spring to compensate for developed looseness between the component parts of a fastened assembly; (2) distribute the load over a larger area for screws or bolts; and, (3) provide a hardened

bearing surface. The scope does not include internal or external tooth washers, nor does it include spring lock washers made of other metals, such as copper.

HSLWs subject to the order are currently classifiable under subheading 7318.21.0030 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Period of Review

This review covers the period October 1, 1999, through September 30, 2000.

Separate Rates Determination

To establish whether a company operating in a state-controlled economy is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this policy, exporters in non-market economy countries (NMEs) are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and, (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or the financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and, (4) whether each exporter has autonomy from the government regarding the selection of management. (*See Silicon Carbide,* 59 FR at 22587 and *Sparklers,* 56 FR at 20589.)

In each of the previous administrative reviews of the antidumping duty order on HSLWs from the PRC, covering successive review periods from October 1, 1993 through September 30, 1999, we determined that Hangzhou and its predecessor, ZWG, merited a separate rate. We have found that the evidence on the record in this review also demonstrates an absence of government control, both in law and in fact, with respect to Hangzhou's export activities according to the criteria identified in *Sparklers,* and an absence of government control with respect to the additional criteria identified in *Silicon Carbide.* Therefore, we have assigned Hangzhou a separate rate.

Export Price

Because Hangzhou sold the subject merchandise to unaffiliated purchasers in the United States prior to importation into the United States and constructed export price methodology is not otherwise indicated, we have used export price in accordance with section 772(a) of the Act.

We calculated export price based on the FOB price to unaffiliated purchasers. From this price, we deducted amounts for foreign inland freight, and brokerage and handling pursuant to section 772(c)(2)(A) of the Act. We valued these deductions using surrogate values. We selected India as the surrogate country for the reasons explained in the ''Normal Value'' section of this notice.

Normal Value

The Department has determined the PRC to be an NME country in all previous antidumping cases. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment in this review. Moreover, parties to this proceeding have not argued that the PRC HSLW industry is a market-oriented industry (MOI) and, consequently, we have no basis to determine that the information in this review would permit the calculation of normal value (NV) using PRC prices or costs. Section 773(c)(1) of the Act provides that, in the case of an NME, the Department shall determine NV using a factors-of-production methodology if: (1) The merchandise is exported from an NME, and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Therefore, we calculated NV based on factors of production in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c).

Under the factors-of-production (FOP) methodology, we are required to value the NME producer's inputs in a comparable market economy country that is a significant producer of comparable merchandise. We determined that India is at a comparable level of economic development to that of the PRC. (*See* Memorandum to Susan Kuhbach from Jeff May, dated March 22, 2001, ''Seventh Administrative Review for Certain Helical Spring Lock Washers from the People's Republic of China,'' which is on file in the Central Records Unit—Public File.) Also, India is a significant producer of comparable merchandise. Therefore, for this review, we have used Indian prices to value the FOP except where a meaningful amount of the factor was purchased from a market economy supplier and paid for in a market economy currency.

We selected, where possible, publicly available values from India which were: (1) Average non-export values; (2) representative of a range of prices within the POR or most contemporaneous with the POR; (3) product-specific; and, (4) tax-exclusive. We valued the factors of production as follows:

- A meaningful amount of the input carbon steel wire rod was purchased from the United Kingdom, a market economy supplier, and paid for in a market economy currency. Pursuant to 19 CFR 351.408(c)(1), we valued this factor using the price paid to the market economy supplier. Thus, for carbon steel wire rod values, we used the average cost per metric ton of carbon steel wire rod imported from the United Kingdom by Hangzhou during the POR. We made adjustments to account for the freight costs incurred between the port and Hangzhou.
- To value the scrap steel sold by Hangzhou, we used per kilogram values obtained from the *Monthly Statistics of the Foreign Trade of India—Imports* (*MSFTI*) as a by-product offset.
- To value the chemicals used in the production and plating process of HSLWs, we used per kilogram import values obtained from *MSFTI* and the Indian publication *Chemical Weekly*. We adjusted these values, where appropriate, to reflect inflation using the Wholesale Price Index (WPI) as reported in the *International Financial Statistics* published by the International Monetary Fund (IMF). We also adjusted these values to account for freight costs incurred between the supplier and Hangzhou.

• To value coal, we used a per kilogram value obtained from the *MFSTI*. We adjusted this value to reflect inflation using the WPI published by the IMF. We also made adjustments to account for freight costs incurred between the supplier and Hangzhou.

• To value electricity, we used the electricity price data from *Energy Data Directory and Yearbook (1999/2000)* published by the Tata Energy Research Institute. We adjusted the value to reflect inflation using the electricity sector-specific inflation index published in the *Reserve Bank of India (RBI) Bulletin*.

• To value water, we used the *Second Water Utilities Data Book for the Asian and Pacific Region* published by the Asian Development Bank in 1997. We adjusted the value to reflect inflation using the WPI published by the IMF.

• For labor, we used the regression-based wage rate for the PRC in ''Expected Wages of Selected NME Countries,'' located on the Internet at *http://ia.ita.doc.gov/wages/*. Because of the variability of wage rates in countries with similar per capita gross domestic products (GDP), 19 CFR 351.408(c)(3) requires the use of a regression-based wage rate. The source for the regression wage rates is ''Expected Wages of Selected NME Countries—1998 Income Data,'' *Year Book of Labour Statistics 1999,* International Labour Office, (Geneva: 1999).

• For factory overhead, selling, general, and administrative expenses (SG&A), and profit values, we used information from the January, 1997 *RBI Bulletin* for the Indian industry group ''Processing and Manufacturing: Metals, Chemicals, and Products Thereof.'' From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor and energy (ML&E) costs, SG&A as a percentage of ML&E plus overhead (*i.e.,* cost of manufacture), and the profit rate as a percentage of the cost of manufacture plus SG&A.

• For packing materials, we used the per kilogram values obtained from the *MFSTI*. Where necessary, we adjusted these values to reflect inflation using the WPI published by the IMF. We also made adjustments to account for freight costs incurred between the PRC supplier and Hangzhou.

• To value foreign brokerage and handling, we used information reported in the *New Shipper Review for Stainless Steel Wire Rod from India*, 66 FR 27629 (May 18, 2001). *See* Meltroll Engineering Pvt. Ltd.''s submission dated September 12, 1999. We adjusted this value to reflect inflation using the WPI published by the IMF.

• To value truck freight, we used November 1999 price quotes which were obtained by the Department in India and used in the *Final Determination of Sales at Less than Fair Value: Bulk Aspirin from the People's Republic of China,* 65 FR 33805 (May 25, 2000) (*Bulk Aspirin from the PRC*).

• To value rail freight, we used November 1999 rail freight price quotes obtained by the Department and used in *Bulk Aspirin from the PRC.*

• To value shipping freight, we used a rate reported to the Department in the August, 1993 cable from the U.S. Embassy in India which was submitted for and used in the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the People's Republic of China,* 58 FR 48833 (September 20, 1993). We adjusted the rate to reflect inflation using the WPI published by the IMF.

For a complete description of the factor values used, *see* ''Memorandum to File: Factor Values Used for the Preliminary Results of the Seventh Administrative Review,'' dated July 3, 2001 (Factors Memorandum) a public version of which is available in the Public File of the Central Records Unit in the main Commerce building.

Preliminary Results of Review

We preliminarily determine that the following dumping margin exists:

Manufacturer/exporter	Time period	Margin (percent)
Hang Zhou Spring Washer Co. Ltd./Zhejiang Wanxin Group Co., Ltd	10/1/99–9/30/00	9.99

Public Comment

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. Interested parties may request a hearing within 30 days of the date of publication of this notice. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs (see below). Interested parties may submit written arguments in case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the date of filing the case briefs. Parties who submit briefs in these proceedings should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f)(3).

The Department will issue the final results of this administrative review within 120 days from the publication of these preliminary results.

Furthermore, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of HSLWs from the PRC entered, or withdrawn from warehouse for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For Hangzhou, which has a separate rate, the cash deposit rate will be the company-specific rate established in the final results of this administrative review; (2) for all other PRC exporters, the cash deposit rate will be the PRC rate, 128.63 percent, which is the All Other PRC Manufacturers, Producers and Exporters rate from the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the PRC*, 58 FR 48833 (September 20, 1993); and, (3) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 3, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–17371 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Computer System Security and Privacy Advisory Board; Request for Nominations

AGENCY: National institute of standards and technology, Commerce.

ACTION: Request for nominations of members to serve on the Computer System Security and Privacy Advisory Board.

SUMMARY: NIST invites and requests nominations of individuals for appointment to the Computer System Security and Privacy Advisory Board (CSSPAB). The terms of some of the members will soon expire. NIST will consider nominations received in response to this notice for appointment to the Board, in addition to nominations already received.

DATES: Please submit nominations on or before August 15, 2001.

ADDRESSES: Please submit nominations to Dr. Fran Nielsen, CSSPAB Secretary, NIST, 100 Bureau Drive, M.S. 8930, Gaithersburg, MD 20899–8930. Nominations may also be submitted via fax to 301–948–2733: CSSPAB Nominations.

Additional information regarding the Board, including its charter and current membership list, may be found on its electronic home page at: http://csrc.nist.gov/csspab/.

FOR FURTHER INFORMATION CONTACT: Dr. Fran Nielsen, CSSPAB Secretary and Designated Federal Official, NIST, 100 Bureau Drive, M.S. 8930, Gaithersburg, MD 20899–8930; telephone 301–975–3669; telefax: 301–926–2733; or via email at fran.nielsen@nist.gov.

SUPPLEMENTARY INFORMATION:

I. CSSPAB Information

Objectives and Duties

The CSSPAB was chartered by the Department of Commerce pursuant to the Computer Security Act of 1987 (Pub. L. 100–235). The objectives and duties of the CSSPAB are:

1. The Board shall identify emerging managerial, technical, administrative, and physical safeguard issues relative to computer systems security and privacy.

2. The Board shall advise the National Institute of Standards and Technology (NIST) and the Secretary of Commerce on security and privacy issues pertaining to Federal computer systems.

3. To report its findings to the Secretary of Commerce, the Director of the Office of Management and Budget, the Director of the National Security Agency, and the appropriate committees of the Congress.

4. The Board will function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

Membership

The CSSPAB is comprised of twelve members, in addition to the Chairperson. The membership of the Board includes:

(1) Four members from outside the Federal Government eminent in the computer or telecommunications industry, at least one of whom is representative of small or medium sized companies in such industries;

(2) Four members from outside the Federal Government who are eminent in the fields of computer or telecommunications technology, or related disciplines, but who are not employed by or representative of a producer of computer or telecommunications equipment; and

(3) Four members from the Federal Government who have computer systems management experience, including experience in computer systems security and privacy, at least one of whom shall be from the National Security Agency.

Miscellaneous

Members of the CSSPAB are not paid for their service, but will, upon request, be allowed travel expenses in accordance with Subchapter I of Chapter 57 of Title 5, United States Code, while otherwise performing duties at the request of the Board Chairperson, while away from their homes or a regular place of business.

Meetings of the Board are two to three days in duration and are held quarterly. The meetings primarily take place in the Washington, DC metropolitan area, usually at the NIST headquarters in Gaithersburg, MD.

Board meetings are open to the public and members of the press usually attend. Members do not have access to classified or proprietary information in connection with their Board duties.

II. Nomination Information

Nominations are sought in all three categories described above, including a small business representative in the first category.

Nominees should have specific experience related to computer security or electronic privacy issues, particularly as they pertain to federal information technology. The category of membership for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination. Also include (where applicable) current or former service on federal advisory boards and federal employment. Each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the CSSPAB, and will actively participate in good faith in the tasks of the CSSPAB. Besides participation at meetings, it is desired that members be able to devote the equivalent of two days between meetings to developing draft issue papers, researching topics of potential interest, and so forth in furtherance of their Board duties.

Selection of CSSPAB members will not be limited to individuals who are nominated. Nominees must be U.S. citizens.

The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse CSSPAB membership.

Dated: July 5, 2001.

Karen H. Brown,

Acting Director, NIST.

[FR Doc. 01–17296 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–CN–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 981028268–1130–04]

RIN 0693–ZA23

Announcing Proposed Changes to Federal Information Processing Standard (FIPS) 186–2, Digital Signature Standard (DSS), and Request for Comments

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Request for comments.

SUMMARY: The Secretary of Commerce approved FIPS 186–2, Digital Signature Standard, in January 2000. NIST proposes two minor changes to this standard to enable federal agencies to make a smooth transition to the

acquisition of equipment implementing the algorithms specified in the standard. These adjustments do not change the technical cryptographic signature algorithm specifications.

Before recommending these minor changes to FIPS 186–2 to the Secretary of Commerce for approval, NIST invites review and comments by the public, private sector, and government organizations.

DATES: Comments on these proposed changes to FIPS 186–2, Digital Signature Standard, must be received on or before August 10, 2001.

SPECIFICATIONS: FIPS 186–2, Digital Signature Standard, is available through the NIST Computer Security Resource Center web page: http://csrc.nist.gov/publications/fips/index.html. Text for the proposed changes is available at http://csrc.nist.gov/publications/drafts.html.

ADDRESSES: Comments on the proposed changes to FIPS 186–2 may be sent either electronically to FIPS 186@nist.gov or by regular mail to: Chief, Computer Security Division, Information Technology Laboratory, ATTN: Comments on Changes to FIPS 186–2 Digital Signature Standard, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Barker, (301) 975–2911, National Institute of Standards and Technology, 100 Bureau Drive, STOP 8930, Gaithersburg, MD 20899–8930.

SUPPLEMENTARY INFORMATION: In January 2000, the Secretary of Commerce approved FIPS 186–2, Digital Signature Standard (DSS). The standard adopts three techniques for the generation and verification of digital signatures. These are the Digital Signature Algorithm (DSA) and two techniques specified in industry standards (ANSI X9.31–1998, Digital Signatures Using Reversible Public Key Cryptography for the Financial Services Industry and ANSI 9.62, 1998 Public Key Cryptography for the Financial Services Industry: Elliptical Curve Digital Signature Algorithm). When the standard was approved, it provided for a transition period from July 2000 to July 2001 to enable federal agencies to continue to use their existing digital signature systems and to acquire additional equipment that might be needed to interoperate with these legacy digital signature systems. Several agencies have notified NIST that commercial equipment implementing another data formatting approach (as input to a signature algorithm) are more readily available and that the original implementation schedule should be extended.

Therefore, NIST is proposing that the Implementation Schedule of FIPS 186–2 be modified to extend the transition period for the acquisition of equipment implementing FIPS 186–2 from July 2001 to December 2002. This will enable agencies to continue to acquire commercial products based on a private sector data formatting approach PKCS #1, which does not interoperate with the data formatting approach specified in FIPS 186–2. NIST believes that using the PKCS #1 is robust and sufficiently strong for use by federal agencies. Also NIST proposes that the Applications section of FIPS 186–2 be modified to clarify that implementations of PKCS #1 (version 1.5 or higher) may be used during the transition period. These proposed adjustments do not change the technical cryptographic digital signature specifications (other than data formatting) for the standard.

Authority: Under Section 5131 of the Information Technology Management Reform Act of 1996 and the Computer Security Act of 1987 (Public Law 100–235), the Secretary of Commerce is authorized to approve standards and guidelines for the cost effective security and privacy of sensitive information processed by federal computer systems.

Executive Order 12866: This notice has been determined not to be significant for purposes of E.O. 12866.

Dated: July 5, 2001.

Karen H. Brown,

Acting Director, NIST.

[FR Doc. 01–17297 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–CN–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Notice of Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

SUMMARY: The inventions listed below are owned in whole or in part by the U.S. Government, as represented by the Department of Commerce, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR Part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: National Institute of Standards and Technology, Office of Technology Partnerships, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') with the licensee to perform further research on the inventions for purposes of commercialization. The inventions available for licensing are:

NIST Docket Number: 00–018US.

Title: Inorganic Non-metallic, Wire Bondable Top Surface Coating For Use In wire Bonding To Copper Metallization On Semiconductor Chips.

Abstract: The invention addresses the problem of electrically interconnecting copper metallized semiconductor ships to their packages with wire bonding. A thin, inorganic film is deposited such that it will break-up during the wire bonding process and be pushed aside. Selected film materials are compatible with and normally used for other purposes in wafer fabrication processing.

NIST Docket Number: 97–017C.

Title: Domain Engineered Ferroelectric Optical Radiation.

Abstract: The invention comprises a pyroelectric detector with significantly reduced microphonic noise sensitivity comprising a pyroelectric detector element constructed from a z-cut LiNBO3 electret. Selective domain reversal is accomplished in the electret by applying an electric field. Electrodes are attached to either surface of the electret spanning the domain reversed region and a portion of the original domain region to create areas of equal and opposite sensitivity. The detector is mounted in an electrically grounded container or housing. The detector may also be constructed having multiple detector regions to accommodate resonant frequencies of the electret or to function as a position sensor.

NIST Docket Number: 9–026US–Transfer.

Title: Modular Suspended Manipulator.

Abstract: A Cable-driven manipulator can precisely manipulate tools and loads using position, velocity and force control modes. The manipulator includes a plurality of cables (2 or more) that are independently controlled by modular, winch drive mechanisms and is coordinated to achieve intuitive manipulator movement in all sex degrees of freedom. The manipulator, consisting of modular sub-assemblies and components (*i.e.,* winch, amplifier, servo interface and sensory feedback), can be rapidly reconfigured to adjust to new applications. The winches can be controlled manually by a multi-axis joystick, or can be automatically controlled by computer. the invention has applications in supporting and manipulating tools and equipment for welding, painting and stripping involving large structures.

NIST Docket Number: 99–035US.

Title: Normal Metal Boundary Conditions For Multi-layer TES Detectors.

Abstract: Described herein are multiplayer transition-edge sensor (TES) having improved performance, a method for preparing them and methods of using them. Specifically, the improvement lies in providing normal metal strips along the edges of the superconducting and normal metal layers parallel to the current flow in the TES during operation. These strips (hereinafter referred to as ''banks'') provide for both improved detector performance and improved detector robustness against corrosion. This improvement is an important advance particularly for the TES-based microcalorimeter detector. The improved TESs also have many other applications based on the very precise thermometer function achieved by the TES.

Dated: July 5, 2001.

Karen H. Brown

Acting Director.

[FR Doc. 01–17295 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Notice 2]

National Fire Codes: Request for Proposals for Revision of Codes and Standards

AGENCY: National Institute of Standards and technology, Commerce.

ACTION: Notice.

SUMMARY: The National Fire Protection Association (NEPA) proposes to revise some of its fire safety codes and standards and requests proposals from the public to amend existing or begin the process of developing new NFPA fire safety codes and standards. The purpose of this request is to increase public participation in the system used by NFPA to develop its codes and standards. The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Interested persons may submit proposals on or before the dates listed with the standards.

ADDRESSES: Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–9101.

FOR FURTHER INFORMATION CONTACT: Casey C. Grant, Secretary, Standards Council, at above address, and by phone (617) 770–3000.

SUPPLEMENTARY INFORMATION:

Background

The National Fire Protection Association (NFPA) develops building, fire, and electrical safety codes and standards. Federal agencies frequently use these codes and standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR Part 51.

Request for Proposals

Interested persons may submit proposals, supported by written data, views, or arguments to Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–9101. Proposals should be submitted on forms available from the NFPA Codes and Standards Administration Office.

Each person must include his or her name and address, identify the document and give reasons for the proposal. Proposals received before 5:00 PM local time on the closing date indicated would be acted on by the Committee. The NFPA will consider any proposal that it receives on or before the date listed with the code or standards.

At a later date, each NFPA Technical Committee will issue a report, which will include a copy of written proposals that have been received, and an account of the disposition of each proposal by the NFPA Committee as the Report on Proposals. Each person who has submitted a written proposal will receive a copy of the report.

Dated: July 5, 2001.

Karen Brown,

Acting Director.

NFPA No.	Title	Proposal closing date
NFPA 14–2000	Standard for the Installation of Standpipe, Private Hydrants, and Hose Systems	7/6/2001
NFPA 16–1999	Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems.	7/6/2001
NFPA 20–1999	Standard for the Installation of Stationary Pumps for Fire Protection	12/28/2001
NFPA 22–1998	Standard for Water Tanks for Private Fire Protection	7/6/2001
NFPA 30A–2000	Code for Motor Fuel Dispensing Facilities and Repair Garages	12/28/2001
NFPA 50A–1999	Standard for Gaseous Hydrogen Systems at Consumer Sites	6/28/2002
NFPA 50B–1999	Standard for Liquefied Hydrogen Systems at Consumer Sites	6/28/2002
NFPA 51B–1999	Standard for Fire Prevention During Welding, Cutting, and Other Hot Work	12/28/2001
NFPA 55–1998	Standard for the Storage, Use, and Handling of Compressed and Liquefied Gases in Portable Cylinders.	7/6/2001
NFPA 80–1999	Standard for Fire Doors and Fire Windows	8/1/2001
NFPA 85–2001	Boiler and Combustion Systems Hazards Code	6/28/2002
NFPA 86–1999	Standard for Ovens and Furnaces	12/28/2001
NFPA 86C–1999	Standard for Industrial Furnaces Using a Special Processing Atmosphere	12/28/2001
NFPA 88B–1997	Standard for Repair Garages	7/6/2001
NFPA 97–2000	Standard Glossary of Terms Relating to Chimneys, Vents, and Heat-Producing Appliances.	7/6/2001
NFPA 105–1999	Recommended Practice for the Installation of Smoke-Control Door Assemblies	7/6/2001
NFPA 123–1999	Standard for Fire Prevention and Control in Underground Bituminous Coal Mines	7/6/2001
NFPA 130–2000	Standard for Fixed Guideway Transit and Passenger Rail Systems	7/6/2001
NFPA 140–1999	Standard for Motion Picture and Television Production Studio Soundstages and Approved Production Facilities.	7/6/2001
NFPA 211–2000	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances	7/6/2001
NFPA 225–P [1]	Standard for Manufactured Home Sites, Communities, and Setups	7/6/2001
NFPA 230–1999	Standard for the Fire Protection of Storage	7/6/2001
NFPA 252–1999	Standard Methods of Fire Tests of Door Assemblies	12/28/2001
NFPA 256–1998	Standard Methods of Fire Tests of Roof Coverings	7/6/2001
NFPA 259–1998	Standard Test Method for Potential Heat of Building Materials	7/6/2001

NFPA No.	Title	Proposal closing date
NFPA 260–1998	Standard Methods of Tests and Classification System for Cigarette Ignition Resistance of Components of Upholstered Furniture.	12/28/2001
NFPA 261–1998	Standard Method of Test for Determining Resistance of Mock-Up Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes.	12/28/2001
NFPA 272–1999	Standard Method of Test for Heat and Visible Smoke Release Rates for Upholstered Furniture Components or Composites and Mattresses Using an Oxygen Consumption Calorimeter.	7/6/2001
NFPA 285–1998	Standard Method of Test for the Evaluation of Flammability Characteristics of Exterior Non-Load-Bearing Wall Assemblies Containing Combustible Components Using the Intermediate-Scale, Multistory Test Apparatus.	12/28/2001
NFPA 295–1998	Standard for Wildfire Control	12/28/2001
NFPA 302–1998	Fire Protection Standard for Pleasure and Commercial Motor Craft	12/28/2001
NFPA 497–1997	Recommended Practice for the Classification of Flammable Liquids, Gases, or Vapors and of Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas.	7/6/2001
NFPA 499–1997	Recommend Practice for the Classification of Combustible Dusts and of Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas.	7/6/2001
NFPA 501–2000	Standard on Manufactured Housing	7/6/2001
NFPA 501A–2000	Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities.	7/6/2001
NFPA 551–P [1]	Guide for the Evaluation of Fire Risk Assessments	6/28/2002
NFPA 720–1998	Recommended Practice for the Installation of Carbon Monoxide (CO) and Fuel Gas Alarm Systems and Equipment.	7/6/2001
NFPA 750–2000	Standard on Water Mist Fire Protection Systems	7/6/2001
NFPA 801–1998	Standard for Fire Protection for Facilities Handling Radioactive Materials	7/6/2001
NFPA 1006–2000	Standard for Rescue Technician Professional Qualifications	7/6/2001
NFPA 1141–1998	Standard for Fire Protection in Planned Building Groups	12/28/2001
NFPA 1670–1999	Standard on Operations and Training for Technical Rescue Incidents	6/28/2002
NFPA 1901–1999	Standard for Automotive Fire Apparatus	9/28/2001
NFPA 1965–P [1]	Standard for Hose Connected Appliances	12/28/2001
NFPA 1977–1998	Standard on Protective Clothing and Equipment for Wildland Fire Fighting	12/31/2001

[1] Proposed NEW drafts are available form NFPA's Website—www.nfpa.org or may be obtained form NFPA's Codes and Standards Administration, 1 Batterymarch Park, Quincy, MA 02269.

[FR Doc. 01–17299 Filed 7–10–01; 8:45 am]
BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Notice 1]

National Fire Codes: Request for Comments on NFPA Technical Committee Reports

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The National Fire Protection Association (NFPA) revises existing standards and adopts new standards twice a year. At both its November Meeting and its May Meeting, the NFPA acts on recommendations made by its technical committees.

The purpose of this notice is to request comments on the technical reports that will be presented at NFPA's 2002 May Meeting. The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: The Building Code is published in a separate ''Report on Proposals'' and will be available on July 27, 2001. Comments received on or before October 5, 2001, will be considered by the Building Code Project before NFPA takes final action on the proposals.

Fifty-four reports are being published in the ''2002 May Meeting Report on Proposals'' and will be available on July 27, 2001. Comments received on or before October 5, 2001 will be considered by the respective NFPA Committees before final action is taken on the proposal.

ADDRESSES: The ''2002 May Meeting Report on Proposals'' and the ''2002 Building Code Report on Proposals'' are available and downloadable from NFPA's Website—www.nfpa.org or by requesting a copy from the NFPA, Fulfillment Center, 11 Tracy Drive, Avon, MA 02322. Comments on the report should be submitted to Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269–9101.

FOR FURTHER INFORMATION CONTACT: Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, MA 02269–9101, (617) 770–3000.

SUPPLEMENTARY INFORMATION:

Background

The National Fire Protection Association (NFPA) develops building, fire, and electrical safety codes and standards. Federal agencies frequently use these codes and standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the **Federal Register** approve the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR Part 51.

Revisions of existing standards and adoption of new standards are reported by the technical committees at the NFPA's November Meeting or the May Meeting each year. The NFPA invites public comment on its Reports on Proposals.

Request for Comments

Interested persons may participate in these revisions by submitting written data, views, or arguments to Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy,

Massachusetts 02269–9101. Commenters may use the forms provided for comments in the Reports on Proposals. Each person submitting a comment should include his or her name and address, identify the notice, and give reasons for any recommendations. Comments received on or before October 5, 2001, for the ''2002 May Meeting Report on Proposals'' and the ''2002 Building Code Report on Proposals'' will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the 2002 May Meeting Report on Comments and the 2002 Building Code Report on Proposals by March 29, 2002, prior to the May Meeting.

A copy of the Report on Comments will be sent automatically to each commentator. Action on the reports of the Technical Committees (adoption or rejection) will be taken by NFPA members at the May Meeting, May 19–23, 2002 in Minneapolis, Minnesota.

Karen Brown,

Acting Director.

2002 MAY MEETING; REPORT ON PROPOSALS

[P=Partial revision; W=withdrawal; R=Reconfirmation; N=New; C=Complete Revision]

Doc. No.	Title	Action
NFPA 10	Standard for Portable Fire Extinguishers	P
NFPA 11	Standard for Low-Expansion Foam	P
NFPA 11A	Standard for Medium- and High-Expansion Foam Systems	W
NFPA 13	Standard for the Installation of Sprinkler Systems	P
NFPA 13D	Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes.	P
NFPA 13R	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height.	P
NFPA 17	Standard for Dry Chemical Extinguishing Systems	P
NFPA 17A	Standard for Wet Chemical Extinguishing Systems	P
NFPA 24	Standard for the Installation of Private Fire Service Mains and Their Appurtenances	C
NFPA 30B	Code for the Manufacture and Storage of Aerosol Products	P
NFPA 42	Code for the Storage of Pyroxylin Plastic	R
NFPA 52	Compressed Natural Gas (CNG) Vehicular Fuel Systems Code	P
NFPA 54/ANSI Z223.1	National Fuel Gas Code	P
NFPA 57	Liquefied Natural Gas (LNG) Vehicular Fuel Systems Code	P
NFPA 61	Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Products Facilities	C
NFPA 69	Standard on Explosion Prevention Systems	C
NFPA 70B	Recommended Practice for Electrical Equipment Maintenance	P
NFPA 72	National Fire Alarm Code	P
NFPA 79	Electrical Standard for Industrial Machinery	C
NFPA 88A	Standard for Parking Structures	P
NFPA 90A	Standard for the Installation of Air-Conditioning and Ventilating Systems	P
NFPA 90B	Standard for the Installation of Warm Air Heating and Air-Conditioning Systems	P
NFPA 101B	Code for Means of Egress for Buildings and Structures	P
NFPA 170	Standard for Fire Safety Symbols	P
NFPA 232	Standard for the Protection of Records	P
NFPA 262	Standard Method of Test for Flame Travel and Smoke of Wires and Cables for Use in Air-Handling Spaces.	C
NFPA 265	Standard Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Wall Coverings.	C
NFPA 291	Recommended Practice for Fire Flow Testing and Marking of Hydrants	P
NFPA 299	Standard for Protection of Life and Property from Wildfire	C
NFPA 318	Standard for the Protection of Clean rooms	P
NFPA 395	Standard for the Storage of Flammable and Combustible Liquids at Farms and Isolated Sites	P
NFPA 402	Guide for Aircraft Rescue and Fire Fighting Operations	P
NFPA 415	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways	P
NFPA 424	Guide for Airport/Community Emergency Planning	P
NFPA 481	Standard for the Protection, Processing, Handling, and Storage of Titanium	W
NFPA 482	Standard for the Production, Processing, Handling and Storage of Zirconium	W
NFPA 484	Standard for Combustible Metals, Metal Powders, and Metal Dusts	C
NFPA 485	Standard for the Storage, Handling, Processing, and Use of Lithium Metal	W
NFPA 490	Code for the Storage of Ammonium Nitrate	P
NFPA 505	Fire Safety Standard for Powered Industrial Trucks Including Type Designations, Areas of Use, Conversions, Maintenance, and Operation.	P
NFPA 550	Guide to the Fire Safety Concepts Tree	P
NFPA 651	Standard for the Machining and Finishing of Aluminum and the Production and Handling of Aluminum Powders.	W
NFPA 664	Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities	C
NFPA 1001	Standard for Fire Fighter Professional Qualifications	P
NFPA 1122	Code for Model Rocketry	C
NFPA 1124	Code for the Manufacture, Transportation, and Storage of Fireworks and Pyrotechnic Articles	C
NFPA 1127	Code for High Power Rocketry	C
NFPA 1221	Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems	C
NFPA 1521	Standard for Fire Department Safety Officer	R
NFPA 1911	Standard for Service Tests of Fire Pump Systems on Fire Apparatus	C
NFPA 1914	Standard for Testing Fire Department Aerial Devices	C
*NFPA 5000	NFPA Building Code	N

2002 MAY MEETING; REPORT ON PROPOSALS—Continued

[P=Partial revision; W=withdrawal; R=Reconfirmation; N=New; C=Complete Revision]

Doc. No.	Title	Action
*	Appears in the A2002 Building Code Report on Proposals.	

[FR Doc. 01–17298 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Call for Applications for Native Hawaiian Representative to the Coral Reef Ecosystem Reserve Council for the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: On December 4, 2000, Executive Order 13178 established the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Reserve). The Executive Order requires the Secretary of Commerce or his or her designee (hereafter Secretary) to establish a Coral Reef Ecosystem Reserve Council (Reserve Council) to provide advice and recommendations on the development of the Reserve Operations Plan and the designation and management of a Northwestern Hawaiian Islands National Marine Sanctuary by the Secretary. The Secretary, through the Office of National Marine Sanctuaries (ONMS), established the Reserve Council and is now seeking applicants for one Native Hawaiian representative seat on the Reserve Council. Previous applicants and current Alternate Council Representatives interested in serving as a full Council member must reapply specifically for this seat in order to be considered in the competitive pool.

DATES: Completed applications must be received by August 10, 2001.

ADDRESSES: Application kits may be obtained from Robert Smith or ‘Aulani Wilhelm, Northwest Hawaiian Islands Coral Reef Ecosystem Reserve, National Ocean Service, P.O. Box 43, Hawaii National Park, Hawaii 96718–0043, or online at: http://hawaiireef.noaa.gov.

Completed applications should be sent to the same address as above.

FOR FURTHER INFORMATION CONTACT: ‘Aulani Wilhelm at (808) 295–1234, or aulani.wilhelm@noaa.gov, or visit the web site at: http://hawaiireef.noaa.gov.

SUPPLEMENTARY INFORMATION: On December 4, 2000, Executive Order 13178 established the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, pursuant to language contained in the National Marine Sanctuaries Amendments Act of 2000. The Reserve encompasses an area of the marine waters and submerged lands of the Northwestern Hawaiian Islands, extending approximately 1200 nautical miles long and 100 nautical miles wide. The Reserve is adjacent to and seaward of the seaward boundary of Hawaii State waters and submerged lands and the Midway Atoll National Wildlife Refuge, and includes the Hawaiian Islands National Wildlife Refuge to the extent it extends beyond Hawaii State waters and submerged lands. The Reserve will be managed by the Secretary of Commerce pursuant to the National Marine Sanctuaries Act and the Executive Order. The Secretary has also initiated the process to designate the Reserve as a National Marine Sanctuary. The management principles and implementation strategy and requirements for the Reserve are found in the Executive Order, which is part of the application kit and can be found on the web site listed above.

In designating the Reserve, the Secretary of Commerce was directed to establish a Coral Reef Ecosystem Reserve Council, pursuant to section 315 of the National Marine Sanctuaries Act, to provide advice and recommendations on the development of the Reserve Operations Plan and the designation and management of a Northwestern Hawaiian Islands National Marine Sanctuary by the Secretary. The ONMS has established the Reserve Council and is now accepting applications from interested individuals to fill one vacant Native Hawaiian representative position on the Council. The Council is comprised of:

1. Three Native Hawaiian representatives, including one Native Hawaiian elder, with experience or knowledge regarding Native Hawaiian subsistence, cultural, religious, or other activities in the Northwestern Hawaiian Islands.

2. Three representatives from the non-Federal science community with experience specific to the Northwestern Hawaiian Islands and with expertise in at least one of the following areas:

A. Marine mammal science.

B. Coral reef ecology.

C. Native marine flora and fauna of the Hawaiian Islands.

D. Oceanography.

E. Any other scientific discipline the Secretary determines to be appropriate.

3. Three representatives from non-governmental wildlife/marine life, environmental, and/or conservation organizations.

4. One representative from the commercial fishing industry that conducts activities in the Northwestern Hawaiian Islands.

5. One representative from the recreational fishing industry that conducts activities in the Northwestern Hawaiian Islands.

6. One representative from the ocean-related tourism industry.

7. One representative from the non-Federal community with experience in education and outreach regarding marine conservation issues.

8. One citizen-at-large representative.

The Reserve Council also includes one representative from the State of Hawaii (and an alternate as appropriate) as appointed by the Governor; the manager of the Hawaiian Islands Humpback Whale National Marine Sanctuary as a non-voting member; and one representative each, as non-voting members, from the Department of the Interior, Department of State, National Marine Fisheries Service, Marine Mammal Commission, U.S. Coast Guard, Department of Defense, National Science Foundation, National Ocean Service, and the Western Pacific Regional Fishery Management Council. The non-voting representatives and their alternates are chosen by the agencies and other entities which they represent on the Council. The charter for the Council can be found in the application kit, or on the web site listed above.

Selections to the Council will be made based upon candidates’ particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; and philosophy regarding the

conservation and management of marine resources. Persons who are interested in applying for membership on the Council may obtain an application from either the person or website identified above. Completed applications must be sent to the address listed above and must be received by August 10, 2001.

Authority: 16 U.S.C. Section 1431 et seq.; Pub. L. 106–513.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: July 6, 2001.

Ted I. Lillestolen,

Deputy Assistant Administrator for Oceans and Coastal Zone Management.

[FR Doc. 01–17370 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070301D]

Endangered Fish and Wildlife; Draft Recovery Plan for the Western North Atlantic Right Whale

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability and request for comments.

SUMMARY: The draft Recovery Plan (Plan) for the western North Atlantic right whale (*Eubalaena glacialis*) is available for review and comment by interested parties prior to preparing the final plan for approval and adoption by NMFS.

DATES: Comments on the draft Plan must be received on or before September 10, 2001.

ADDRESSES: Comments should be addressed to Coordinator of Large Whale Recovery Activities, Marine Mammal Division, Office of Protected Resources (F/PR), 1315 East-West Highway, Silver Spring, MD 20910. A copy of the draft plan for the North Atlantic right whale is available upon request from F/PR, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Gregory K. Silber, Ph.D., NMFS, F/PR, 301/713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

The draft plans are also available through the internet at: http://www.nmfs.noaa.gov/prot—res/PR3/recovery.html.

Background

The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires that NMFS develop and implement recovery plans for the conservation and survival of threatened and endangered species under its jurisdiction unless it is determined that such plans will not promote the conservation of the species. In 1991, NMFS issued the first recovery plan for northern right whales. NMFS, in consultation with key constituent groups and organizations, has prepared an updated draft plan for right whales in the North Atlantic ocean. The plan discusses the natural history, current status, and the known and potential human impacts to right whales. Actions needed to promote the recovery of this species are identified and discussed. A Final Recovery Plan will be used to direct U.S. activities, and to encourage international cooperation to promote the recovery of these endangered species.

Dated: July 6, 2001.

Wanda L. Cain,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–17367 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 010410087–1131–02; I.D. 032901A]

RIN 0648–AO07

New England Fishery Management Council; Notice and Request for Sea Scallop Research Proposals; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of solicitation for applications; correction.

SUMMARY: On May 29, 2001, NMFS published a notice in the **Federal Register** that provided information on the research total allowable catch (TAC) set-aside program authorized under Framework 14 to the Atlantic Sea Scallop Fishery Management Plan. The notice provided information on the submission process, eligibility criteria, proposal requirements and priorities, project evaluation, application deadlines and other requirements related to the TAC set-aside research program. One of the project funding priorities was inadvertently omitted. In addition, the document contains numerous typographical errors. This document corrects these errors.

DATES: May 29, 2001.

FOR FURTHER INFORMATION CONTACT: Patricia M. Fiorelli, New England Fishery Management Council, (978) 465–0492, or Peter Christopher, NMFS, (978) 281–9288.

SUPPLEMENTARY INFORMATION: On May 11, 2001 (66 FR 24052), NMFS published a final rule implementing Framework 14 to the Atlantic Sea Scallop Fishery Management Plan. This framework implemented a system for allowing controlled scallop fishing in the Hudson Canyon and Virginia Beach Sea Scallop Access Areas. Framework 14 also implemented a TAC set-aside program to support sea scallop research projects. Under the program, certain limited access sea scallop vessels would be allowed to land scallops in excess of the possession limit, or take additional trips above those provided for in the program, and use the proceeds of the excess catch or additional trips to offset the costs of the research proposals submitted in response to the May 29 **Federal Register** notice.

The notice published on May 29, 2001 (66 FR 29090), contains errors. A number of words and phrases were combined (run together) without the appropriate spacing between the words. In addition, in Section J, Project Funding Priorities, Item 8 was inadvertently omitted. This document corrects these errors.

Correction

Accordingly, the publication on May 29, 2001, the Notice of Solicitation for Applications (66 FR 29090), which was the subject of document FR Doc. 01–13416, is corrected as follows:

1. On page 29092, under Section J, in the third column:

a. Second line of Item 4, insert a space between ''each'' and ''limited'' to read ''each limited''.

b. Second line of Item 5, insert a space between ''reduce'' and ''discard'' to read ''reduce discard''.

c. After Item 7, insert Item 8 to read as follows:

''8. Experimental designs with control areas using alternative management strategies, such as area licensing and rotational closures (projects should include an analysis of yield improvement, habitat impacts and social impacts, including conflict resolution across fisheries);''

d. Second line of Item 12, insert a space between ''life'' and ''history'' to read ''life history''.

2. On page 29092, under Section K, third column, second line of Item 3,

insert a space between ''likely'' and ''to'' to read ''likely to''.

3. On page 29093, under Section M, second column, second line of Item 2, insert a space between ''Project'' and ''goals'' to read ''Project goals''.

4. On page 29093, under Section M, second column, second line of Item 5, insert a space between ''research'' and ''agreements,'' to read ''research agreements,''

5. On page 29093, under Section N, in the third column:

a. Second line of Item 3, insert a space between ''collection'' and ''and'' to read ''collection and''.

b. Second line of Item 4, insert a space between ''conclusions'' and ''presented'' to read ''conclusions presented''.

c. Second line of Item 6, insert a space between ''to'' and ''conduct'' to read ''to conduct''.

d. Eleventh line of Item 6, insert a space between ''index.htm/'' and ''under'' to read ''index.htm/ under''.

6. On page 29093, under Section P, third column, the last line of Item 2, ''selected'' is corrected to read ''selected.''

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 3, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–17368 Filed 7–10–01; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, July 19, 2001, 2 p.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *CPSC Vice Chairman:* The Commission will elect a Vice Chairman.
2. *FY 2003 Budget Request:* The staff will brief the Commission on issues related to the Commission's budget for fiscal year 2003.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Todd A. Stevenson, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: July 9, 2001.

Todd A. Stevenson,

Acting Secretary.

[FR Doc. 01–17500 Filed 7–9–01; 3:59 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness)

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 10, 2001.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness) (Force Management Policy) (Military Personnel Policy)/Accession Policy, ATTN: Major Brenda Leong, 4000 Defense Pentagon, Washington, DC 20301–4000.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call at (703) 695–5529.

Title, Associated Form, and OMB Control Number: ''Request for Verification of Birth,'' DD Form 372, OMB Control Number: 0704–0006.

Needs and Uses: Title 10, USC 505, 3253, 5013, and 8253, require applicants meet minimum and maximum age and citizenship requirements for enlistment into the Armed Forces (including the Coast Guard). If an applicant is unable to provide a birth certificate, the recruiter will forward a DD Form 372, ''Request for Verification of Birth,'' to a state or local agency requesting verification of the applicant's birth date. This verification of the birth date ensures that the applicant does not fall outside the age limitations, and that the applicants place of birth supports the citizenship status claimed by the applicant.

Affected Public: State, Local or Tribal Government.

Annual Burden Hours: 8,300.

Number of Respondents: 100,000.

Responses Per Respondent: 1.

Average Burden Per Response: .083 hours per respondent.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This information provides the Armed Services with the exact birth date of an applicant. The DD Form 372 is the method of collecting and verifying birth data on applicants who are unable to provide a birth certificate from their city, county or state. The DoD Form is considered the official request for obtaining the birth data on applicants.

Dated: July 2, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–17259 Filed 7–10–01; 8:45 am]

BILLING CODE 5001—08—M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collections; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

In accordance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the

information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received September 10, 2001.

ADDRESSES: Written comments and recommendations on the information collection should be sent to TRICARE Management Activity—Aurora, Office of Program Requirement, 16401 E. Centretech Parkway, ATTN: Graham Kolb, Aurora, CO 80011–9043.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection, please write to the above address or call TRICARE Management Activity, Office of Program Requirements at (303) 676–3580.

Title Associated With Form, and OMB Number: Health Insurance Claim Form, UB92, OMB Number 0720–0013.

Needs and Uses: This information collection requirement is necessary for a medical institution to claim benefits under the Defense Health Program, TRICARE, which includes the Civilian Health and Medical Program for the Uniform Services (CHAMPUS). The information collected will be used by TRICARE/CHAMPUS to determine beneficiary eligibility, other health insurance liability, certification that the beneficiary received the care, and that the provider is authorized to receive TRICARE/CHAMPUS payments. The form will be used by TRICARE/CHAMPUS and it's contractors to determine the amount of benefits to be paid to TRICARE/CHAMPUS institutional providers.

Affected Public: Business or other for-profit; not-for-profit institutions.

Annual Burden Hours: 525,000.

Numbers of Respondents: 2,100,000 annually.

Responses Per Respondent: 1.

Average Burden Per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This collection instrument is for use by medical institutions filing for reimbursement with the Defense Health Program, TRICARE, which includes the Civilian Health and Medical Program of the Uniformed Services (TRICARE/CHAMPUS). TRICARE/CHAMPUS is a health benefits entitlement program for the dependents of active duty members of the Uniformed Service, and deceased sponsors, retirees and their dependents, dependents of Department of Transportation (Coast Guard) sponsors, and certain North Atlantic Treaty Organization, National Oceanic and Atmospheric Administration, and Public Health Service eligible beneficiaries. Use of the UB–92 (also known as the HCFA 1450) continues TRICARE/CHAMPUS commitments to use the national standard claim form for reimbursement of medical services/supplies provided by institutional providers.

Dated: June 28, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–17262 Filed 7–10–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 232, Contract Financing, and Related Clause at DFARS 252.232–7007, Limitation of Government's Obligation; OMB Number 0704–0359.

Type of Request: Extension.

Number of Respondents: 800.

Responses Per Respondent: 1.

Annual Responses: 800.

Average Burden Per Response: 1 Hour.

Annual Burden Hours: 800.

Needs and Uses: This information collection requires contractors that are awarded incrementally funded, fixed-price DoD contracts to notify the Government when the work under the contract will, within 90 days, reach the point at which the amount payable by the Government (including any termination costs) approximates 85 percent of the funds currently allotted to the contract. This information will be used to determine what course of action the Government will take (e.g., allot additional funds for continued performance, terminate the contract, or terminate certain contract line items).

Affected Public: Business or other for-profit; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Lewis W. Oleinick.

Written comments and recommendations on the proposed information collection should be sent to Mr. Oleinick at the Office of Management and Budget, Desk Officer for DoD (Acquisition), Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written request for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: July 2, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–17260 Filed 7–10–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 215.8, Price Negotiation, and Related Clauses at 252.215; OMB Number 0704–0232.

Type of Request: Extension.

Number of Respondents: 310.

Responses Per Respondent: 0.45.

Annual Responses: 141.

Average Burden Per Response: 37.94 Hours.

Annual Burden Hours: 5,350.

Needs and Uses: DoD contracting officers need this information to negotiate an equitable adjustment in the total amount paid or to be paid under a fixed-price redeterminable or fixed-price incentive contract to reflect final subcontract prices; and to determine if a contractor has an adequate system for generating cost estimates, and monitor correction of any deficiencies.

Affected Public: Business or other for-profit; not-for-profit Institutions.

Frequency: On occasion.

Respondents Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Lewis W. Oleinick.

Written comments and recommendations on the proposed information collection should be sent to Mr. Oleinick at the Office of Management and Budget, Desk Officer for DoD (Acquisition), Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: July 2, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–17261 Filed 7–10–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Uniformed Services University of the Health Sciences

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Uniformed Services University of the Health Sciences.

TIME AND DATE: 8:30 a.m. to 4:00 p.m., August 14, 2001.

PLACE: Uniformed Services University of the Health Sciences, Board of Regents Conference Room (D3001), 4301 Jones Bridge Road, Bethesda, MD 20814–4799.

STATUS: Open—under ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8:30 a.m. Meeting—Board of Regents

(1) Approval of Minutes—May 18, 2001
(2) Faculty Matters
(3) Departmental Reports
(4) Financial Report
(5) Report—President, USUHS
(6) Report—Dean, School of Medicine
(7) Report—Dean, Graduate School of Nursing
(8) Comments—Chairman, Board of Regents
(9) New Business

CONTACT PERSON FOR MORE INFORMATION: Mr. Bobby D. Anderson, Executive Secretary, Board of Regents, (301) 295–3116.

Dated: July 5, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–17493 Filed 7–9–01; 3:45 pm]

BILLING CODE 5001–08–M

DEPARTMENT OF ENERGY

Office of Science; Basic Energy Sciences Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Basic Energy Sciences Advisory Committee (BESAC). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, August 2, 2001, 8:00 a.m. to 5:00 p.m., and Friday, August 3, 2001, 8:00 a.m. to 12:00 p.m.

ADDRESSES: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

FOR FURTHER INFORMATION CONTACT: Sharon Long; Office of Basic Energy Sciences; U.S. Department of Energy; 19901 Germantown Road; Germantown, MD 20874–1290; Telephone: (301) 903–5565.

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* The purpose of this meeting is to provide advice and guidance with respect to the basic energy sciences research program.

Tentative Agenda: Agenda will include discussions of the following:

Thursday, August 2, 2001

- Welcome and Introduction.
- Remarks from Acting Director, Office of Science.
- News from Basic Energy Sciences.
- Spallation Neutron Source Update.
- Interagency Working Group on Neutron Science.
- Update on the Nanoscale Science Research Centers.
- National Science Foundation Nanoscale Science, Engineering, and Technology.
- Linac Coherent Light Source Update.

Friday, August 3, 2001

- Other Department of Energy Briefings.

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Sharon Long at 301–903–6594 (fax) or *sharon.long@science.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days prior to the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; 1E–190, Forrestal Building; 1000 Independence Avenue, SW., Washington, DC 20585; between 9:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C. on July 5, 2001.

Rachel Samuel,

Deputy Advisory Committee, Management Officer.

[FR Doc. 01–17301 Filed 7–10–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Pantex

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Pantex. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register.**

DATES: Tuesday, July 24, 2001, 1:00 p.m.–5:00 p.m.

ADDRESSES: The Radisson Inn of Amarillo at Interstate 40 and Lakeside, The East Ballroom, Amarillo, TX.

FOR FURTHER INFORMATION CONTACT: Jerry S. Johnson, Assistant Area Manager, Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120; phone (806) 477–3125; fax (806) 477–5896 or e-mail *jjohnson@pantex.gov.*

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

Tentative Agenda:

1:00 Agenda Review/Approval of Minutes.
1:15 Co-Chair Comments.
1:30 Task Force/Subcommittee Reports.
2:00 Ex-Officio Reports.
2:15 Break.
2:30 Updates—Occurrence Reports—DOE.
3:00 Presentation (To Be Announced)/24 hr. information line: (806) 372–1945.

4:00 Questions, Public Questions/Comments.

5:00 Adjourn.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jerry Johnson's office at the address or telephone number listed above. Requests must be received five days prior to the meeting and every reasonable provision will be made to accommodate the request in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 a.m. to 10:00 p.m. Monday through Thursday; 7:45 a.m. to 5:00 p.m. on Friday; 8:30 a.m. to 12:00 noon on Saturday; and 2:00 p.m. to 6:00 p.m. on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9:00 a.m. to 7:00 p.m. on Monday; 9:00 a.m. to 5:00 p.m. Tuesday through Friday; and closed Saturday and Sunday as well as Federal holidays. Minutes will also be available by writing or calling Jerry S. Johnson at the address or telephone number listed above.

Issued at Washington, DC on July 5, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–17300 Filed 7–10–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–467–000]

ANR Pipeline Company; Notice Tariff Filing

July 5, 2001.

Take notice that on June 29, 2001, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of August 1, 2001:

First Revised Sheet No. 0
Eleventh Revised Sheet No. 2
Sixth Revised Sheet No. 69
Ninth Revised Sheet No. 70
Sixth Revised Sheet No. 71
Sixth Revised Sheet No. 72
First Revised Sheet No. 75D
Second Revised Sheet No. 76
Third Revised Sheet No. 93
Original Sheet No. 93A
First Revised Sheet No. 99
Second Revised Sheet No. 100
Fourth Revised Sheet No. 116
Second Revised Sheet No. 148
Seventh Revised Sheet No. 161
Fifth Revised Sheet No. 188
Sixth Revised Sheet No. 191
Sheet Nos. 192–197

ANR states that the tariff sheets revise three sections of the Form of Agreement in ANR's tariff. ANR proposes to include a provision allowing shippers to change their maximum daily quantity to correspond to changes in Fuel Use Percentage. ANR also proposes to eliminate a provision relating to operational flow orders from both the Form of Agreement and the General Terms and Conditions (GT&C) of the tariff and move provisions relating to discounted rates to a new section in the GT&C.

ANR also proposes to make the following revisions to its GT&C: (1) Revise Sections 2.1, 2.4 and 21.2 relating to the deposit requirement for requests for service; (2) revise Section 2.1 to include a provision deeming contracts to be executed upon ANR's approval and the customer's nomination; (3) revise Section 18.7 to change the choice of law from Michigan to Texas; (4) revise Section 18.8 relating to changes in rules, orders or regulations which invalidate a term of service; (5) revise Section 21.2 relating to contractual obligations arising from capacity releases; (6) revise Section 30.2 to clarify that ANR can file either a negotiated rate agreement or a tariff sheet; and (7) update several tariff sheets to reflect the company's new address and appropriate department for receiving various notices.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17316 Filed 7–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–462–000]

Egan Hub Partners, L.P. Notice of Proposed Changes in FERC Gas Tariff

July 5, 2001.

Take notice that on June 27, 2001, Egan Hub Partners, L.P. (Egan Hub) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on the attached Appendix A to the filing, to be effective on August 1, 2001.

Egan Hub states that the purpose of this filing is to make certain housekeeping changes necessary to reflect the acquisition of Egan Hub by Duke Energy Gas Transmission. Egan Hub states that updated address and contact information for Egan Hub representatives, updated addresses for the Egan Hub Internet Web site, and an updated telephone number for obtaining information on access to the Internet Web site is being incorporated into the appropriate sections of the tariff. Egan Hub also states that the contents of Sheet No. 127 (GT&C Section 24, Gas Industry Standards) are being deleted because the complete and updated text of this section is contained on Sheet No. 94 within the General Terms and Conditions.

Egan Hub states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C.

20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17325 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–322–001]

El Paso Natural Gas Company; Notice of Compliance Filing

July 5, 2001.

Take notice that on June 14, 2001, El Paso Natural Gas Company (El Paso) tendered tariff sheets to comply with order paragraph (E) of the Commission's February 9, 2000 order in this proceeding and, when approved by the Commission, to place into effect the revised Willcox Lateral Facilities Charge(s). The tariff sheets are proposed to become effective on July 15, 2001.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations, on or before July 15, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((202)208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17309 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–463–000]

Gulf South Pipeline Company, LP; Notice of Proposed Changes to FERC Gas Tariff

July 5, 2001.

Take notice that on June 28, 2001, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the tariff sheets listed on the filing, to become effective July 30, 2001.

Gulf South filed the tariff sheets listed above to correct minor inconsistencies and to update certain provisions to clarify the tariff language. Gulf South also requested a waiver of certain requirements to allow Gulf South to serve interested parties using e-mail communications.

Gulf South states that copies of this filing have been served upon Gulf South's customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17322 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–465–000]

MIGC, Inc.; Notice of Tariff Filing

July 5, 2001.

Take notice that on June 29, 2001 MIGC, Inc. (MIGC), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Fifth Revised Sheet No. 6, with a proposed effective date of August 1, 2001.

MIGC states that the purpose of the filing is to revise and update the fuel retention and loss percentage factors (FL&U factors) set forth in its FERC Gas Tariff, First Revised Volume No. 1 in accordance with the requirements of Section 25 of said tariff.

MIGC states that copies of its filing are being mailed to its jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17315 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–466–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

July 5, 2001.

Take notice that on June 29, 2001, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheet to become effective July 1, 2001:

Thirty Seventh Revised Sheet No. 9

National states that under Article II, Section 2, of the settlement, it is required to recalculate the maximum Interruptible Gathering (IG) rate monthly and to charge that rate on the first day of the following month if the result is an IG rate more than 2 cents above or below the IG rate as calculated under Section 1 of Article II. The recalculation produced an IG rate of $0.47 per dth. In addition, Article III, Section 1 states that any overruns of the Firm Gathering service provided by National shall be priced at the maximum IG rate.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17327 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2459–000]

New York Independent System Operator, Inc.; Notice of Filing

July 5, 2001.

Take notice that on June 29, 2001, the New York Independent System Operator, Inc. (NYISO) filed revisions to its Market Administration and Control Area Services Tariff (''Services Tariff'') to permit Capacity Limited Resources and Energy Limited Resources to incorporate more precise information about their upper operating limits in their bids.

The NYISO has served a copy of this filing upon all parties that have executed Service Agreements under the NYISO's Open Access Transmission Tariff and Services Tariff, as well as the New York State Public Service Commission, and the electric utility regulatory agencies in New Jersey and Pennsylvania.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 13, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at http://www.ferc.gov using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–17329 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–223–005]

Northern Natural Gas Company; Notice of Compliance Filing

July 5, 2001.

Take notice that on June 29, 2001, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective on May 1, 2001 in compliance with the Commission's Order dated June 15, 2001:

Sub 1 Revised 55 Revised Sheet No. 51
Substitute Second Revised Sheet No. 125A
Substitute First Revised Sheet No. 125B
Substitute First Revised Sheet No. 125C
Substitute First Revised Sheet No. 125D
Substitute First Revised Sheet No. 125E
Substitute First Revised Sheet No. 125F
Substitute Third Revised Sheet No. 415

In addition, Northern submitted for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, 1 Revised 57 Revised Sheet No. 51 to be effective June 1, 2001 and 1 Revised 56 Revised Sheet No. 51 to be effective October 19, 2001.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically

via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17319 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP96–272–033]

Northern Natural Gas Company; Notice of Tariff Filing and Negotiated Rate

July 5, 2001.

Take notice that on June 29, 2001, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to become effective on July 1, 2001:

21 Revised Sheet No. 66
12 Revised Sheet No. 66A

Northern states that the above sheets are being filed to amend the negotiated rate transaction with WPS Energy Services, Inc. in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines. In addition, the transaction that has expired has been deleted.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17321 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–073]

Reliant Energy Gas Transmission Company; Notice of Tariff Filing and Negotiated Rate

July 5, 2001.

Take notice that on June 29, 2001, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective July 1, 2001:

First Revised Sheet No. 8T
First Revised Sheet No. 8U
First Revised Sheet No. 8U.01
Original Sheet No. 8AO

REGT states that the purpose of this filing is to reflect the revision of two existing negotiated rate contracts and the addition a new negotiated rate contract.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17320 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–473–000]

Stingray Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 5, 2001.

Take notice that on July 2, 2001 Stingray Pipeline Company (Stingray) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed in Attachment A to the filing, to become effective date of August 1, 2001.

On January 29, 2001 Starfish Pipeline Company, LLC (Starfish) purchased Stingray from Deepwater Holdings, L.L.C. (Deepwater). Starfish is equally owned by Shell Gas Transmission, LLC (SGT) and Enterprise Products Operating, L.P. Pursuant to a transition services agreement between the parties, an affiliate of Deepwater agreed to operate Stingray through July 31. Effective August 1, 2001, the Deepwater affiliate will no longer operate Stingray. The revised tariff sheets in Attachment A reflect the necessary modifications to accomplish the change in operator as more fully explained in the application.

Stingray states that a copy of this filing has been served upon its customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for

assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17324 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–472–000]

Texas Eastern Transmission, LP; Notice of Proposed Changes in FERC Gas Tariff

July 5, 2001.

Take notice that on June 29, 2001, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 and First Revised Volume No. 2, revised tariff sheets listed on Appendix A to the filing to become effective August 1, 2001.

Texas Eastern states that these revised tariff sheets are filed pursuant to Section 15.1, Electric Power Cost (EPC) Adjustment, of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Seventh Revised Volume No. 1. Texas Eastern states that Section 15.1 provides that Texas Eastern shall file to be effective each August 1 revised rates for each applicable zone and rate schedule based upon the projected annual electric power costs required for the operation of transmission compressor stations with electric motor prime movers.

Texas Eastern states that the rate changes proposed to the primary firm capacity reservation charges, usage rates and 100% load factor average costs for full Access Area Boundary service from the Access Area Zone, East Louisiana, to the three market area zones are as follows:

Zone	Reservation	Usage	100% LE
Market 1	$(0.003)/dth	$0.0003/dth	$0.0002/dth
Market 2	(0.009)/dth	0.0010/dth	0.0007/dth
Market 3	(0.013)/dth	0.0014/dth	0.0010/dth

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17323 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–461–000]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

July 5, 2001.

Take notice that on June 28, 2001 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Twenty-First Revised Sheet No. 28. The attached tariff sheet is proposed to be effective June 1, 2001.

Transco states that the purpose of the instant filing is track rate changes attributable to storage service purchased from Texas Eastern Transmission Corporation under its Rate Schedule X–28 the costs of which are included in the rates and charges payable under Transco's Rate Schedule S–2.

Transco states that the filing is being made pursuant to tracking provisions under Section 26 of the General Terms and Conditions of Transco's Third Revised Volume No. 1 Tariff.

Included in Appendix B attached to the filing is the explanation and details regarding the computation of the Rate Schedule S–2 rate changes.

Transco states that copies of the filing are being mailed to each of its S–2 customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17326 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–469–000]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

July 5, 2001.

Take notice that on June 29, 2001, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets, listed on Appendix A to the filing, with an effective date of August 1, 2001.

Transco states that the instant filing is submitted pursuant to Section 39 of the General Terms and Conditions of Transco's FERC Gas Tariff which provides that Transco will file to adjust its Great Plains Volumetric Surcharge (GPS) 30 days prior to each GPS Annual Period beginning August 1. The GPS Surcharge is designed to recover (i) The cost of gas purchased from Great Plains Gasification Associates (or its successor) which exceeds the Spot Index (as defined in Section 39 of the General Terms) and (ii) the related cost of transporting such gas.

Transco states that the revised GPS Surcharge included therein consists of two components—the Current GPS Surcharge calculated for the period August 1, 2001 through July 31, 2002 plus the Great Plains Deferred Account Surcharge (Deferred Surcharge). The determination of the Deferred Surcharge is based on the balance in the current GPS subaccount plus accumulated interest at April 30, 2001.

Transco states that included in Appendix B attached to the filing are workpapers supporting the calculation of the revised GPS Surcharge of $0.0158 per dt reflected on the tariff sheets included therein.

Transco states that copies of the instant filing are being mailed to customers, State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17328 Filed 7–11–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–470–000]

Trunkline LNG Company; Notice of Proposed Changes in FERC Gas Tariff

July 5, 2001.

Take notice that on June 29, 2001, Trunkline LNG Company (TLNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1–A, the following tariff sheet to be effective August 1, 2001:

Fifth Revised Sheet No. 5

Trunkline states that this filing is made in accordance with Section 19 (Fuel Reimbursement Adjustment) and Section 20 (Electric Power Cost Adjustment) of the General Terms and Conditions (GT&C) of TLNG's FERC Gas Tariff, Original Volume No. 1–A. The revised tariff sheets reflect a (0.24%) decrease to the currently effective fuel reimbursement percentage and a $0.0144 per Dt. increase for the electric power cost adjustment under Rate Schedules FTS and ITS.

TLNG states that copies of this filing are being served on all affected customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17318 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–468–000]

West Texas Gas, Inc.; Notice of Gas Cost Reconciliation Report

July 5, 2001.

Take notice that on June 28, 2001, West Texas Gas, Inc. (WTG) submitted for filing, pursuant to Section 19 of the General Terms and Conditions of its FERC Gas Tariff its annual purchased gas cost reconciliation for the period ending April 30, 2001. Under Section 19, any difference between WTG's actual purchased gas costs and its spot market-based pricing mechanism is refunded or surcharged to its two jurisdictional customers annually, with interest. The report indicates that WTG undercollected its actual costs by $418,862 during the reporting period.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 11, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference

Room. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17317 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–464–000]

Williston Basin Interstate Pipeline Company, Notice of Fuel Reimbursement Charge Filing

July 5, 2001.

Take notice that on June 29, 2001, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2, the revised tariff sheets listed on Appendix A to the filing, to become effective August 1, 2001.

Williston Basin states the revised tariff sheets reflect revisions to the fuel reimbursement charge and percentage components of the Company's relevant transportation, gathering, and storage rates, pursuant to Williston Basin's Fuel Reimbursement Adjustment Provision, contained in Section 38 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17314 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–122–000, et al.]

Allegheny Energy Supply Lincoln Generating Facility, LLC, et al.; Electric Rate and Corporate Regulation Filings

July 2, 2001.

Take notice that the following filings have been made with the Commission:

1. Allegheny Energy Supply Lincoln Generating Facility, LLC, Allegheny Energy Supply Company, LLC, and Allegheny Energy Global Markets, LLC

[Docket No. EC01–122–000]

Take notice that on June 26, 2001, Allegheny Energy Supply Lincoln Generating Facility, LLC (Lincoln), Allegheny Energy Supply Company, LLC (AE Supply), and Allegheny Energy Global Markets, LLC (Global Markets), filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization of an intra-corporate reorganization whereby AE Supply will transfer membership interests in Lincoln to Global Markets, its affiliate.

Comment date: July 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Spencer Station Generating Company, L.P.

[Docket No. EG01–248–000]

Take notice that on June 27, 2001, Spencer Station Generating Company, L.P. (Spencer), located at 7500 Old Georgetown Road, Bethesda, Maryland 20814–6161, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Spencer will own and/or operate two hydroelectric generating projects, located on the Elm Fork of the Trinity River, near the City of Denton, Texas, with a maximum combined output of 3.2 MW and a natural gas-fired generating station with a maximum output of 176 MW located in the City of Denton, Texas.

Comment date: July 23, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Boston Edison Company

[Docket No. ER99–35–005]

Take notice that on June 27, 2001, Boston Edison Company filed certain substitute rate schedule sheets to correct typographical errors in its First Revised Rate Schedule FERC No. 169, filed on April 26, 2001 in compliance with the Commission's order issued March 27, 2001 in this proceeding.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Community Energy, Inc.

[Docket No. ER01–1836–001]

Take notice that on June 25, 2001, Community Energy, Inc. (CEI) petitioned the Commission for acceptance of the amendment of the CEI Rate Schedule FERC No. 1 submitted on April 10, 2001; the granting of certain blanket approvals, including the authority to sell electricity at market-rates; and the waiver of certain Commission regulations.

CEI requested the rate schedule be effective July 1, 2001.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Allegheny Energy Service Corporation on Behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER01–2421–000]

Take notice that on June 26, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) filed Service Agreement No. 135 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply requests a waiver of notice requirements for an effective date of May 25, 2001 for service to Wisconsin Public Service Corporation. Confidential treatment of information in the Service Agreement has been requested. Copies have been provided to the Public Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State

Corporation Commission, the West Virginia Public Service Commission and all parties of record.

Comment date: July 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Southern Company Services, Inc.

[Docket No. ER01–2422–000]

Take notice that on June 26, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies), filed a Purchase Power Agreement between Southern Companies and Alabama Electric Cooperative, Inc. (AEC) under Southern Companies' Market-Based Rate Tariff, (FERC Electric Tariff, Second Revised Volume No. 4). Under this agreement, power will be delivered to six (6) delivery points of AEC.

Comment date: July 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Public Service Company of New Mexico

[Docket No. ER01–2423–000]

Take notice that on June 26, 2001, Public Service Company of New Mexico (PNM) submitted for filing an executed service agreement with the PNM Wholesale Power Marketing, under the terms of PNM's Open Access Transmission Tariff. The agreement is for long-term firm point-to-point transmission service from the San Juan Generating Station 345kV Switchyard to the Coronado Generating Station 500kV Switchyard. The effective date for the agreements is May 1, 2001, the date of the service agreement. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to PNM Wholesale Power Marketing, PNM Transmission Development and Contracts, and to the New Mexico Public Regulation Commission.

Comment date: July 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Alliance Energy Services Partnership

[Docket No. ER01–2424–000]

Take notice that on June 26, 2001, Alliance Energy Services Partnership filed its Rate Schedule FERC No. 2 for purchases of electric energy and capacity from eligible independent power producers as more fully described in the filing. Alliance Energy Services Partnership requests an effective date of June 25, 2001.

Comment date: July 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Indeck-Rockford, L.L.C.

[Docket Nos. ER01–2425–000 and ER00–2069–001]

Take notice that on June 27, 2001, Indeck-Rockford, L.L.C. (Indeck-Rockford) tendered for filing a Notification of Change in Status and Application for Acceptance of a Revised FERC electric tariff and related Code of Conduct.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Entergy Services, Inc.

[Docket No. ER01–2426–000]

Take notice that on June 26, 2001, Entergy Services, Inc., (Entergy) on behalf of Entergy Gulf States, Inc., tendered for filing a Long-Term Market Rate Sales Agreement between Entergy Gulf States, Inc. and Vinton Public Power Authority under Entergy Services, Inc.'s Rate Schedule SP. Entergy requests an effective date of June 1, 2001.

Comment date: July 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. American Electric Power Service Corporation

[Docket No. ER01–2427–000]

Take notice that on June 26, 2001, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Firm and Non-Firm Transmission Service Agreements for NRG Power Marketing Inc., and Long-Term Firm Point-to-Point Transmission Service Agreement Specifications for AEPSC's Merchant Organization Power Marketing and Trading Division, American Municipal Power—Ohio, Consumers Energy Company, Constellation Power Source, Inc., and The Detroit Edison Company. All of these agreements are pursuant to the AEPCompanies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Second Revised Volume No. 6. AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service on and after June 1, 2001.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment date: July 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Entergy Services, Inc.

[Docket No. ER01–2428–000]

Take notice that on June 26, 2001, Entergy Services, Inc., (Entergy) on behalf of Entergy Gulf States, Inc., tendered for filing a Long-Term Market Rate Sales Agreement between Entergy Gulf States and City of Jasper, Texas under Entergy Services, Inc.'s Rate Schedule SP. Entergy requests an effective date of June 1, 2001.

Comment date: July 17, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. QST Energy Trading, Inc.

[Docket No. ER01–2430–000]

Take notice that QST Energy Trading, Inc. (QST Trading), 300 Liberty Street, Peoria, Illinois 61602, on June 26, 2001, tendered for filing a Notice of Cancellation of its FERC Electric Rate Schedule.

Copies of the filing were served on the Illinois Commerce Commission.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Indeck-Ilion Limited Partnership

[Docket No. ER01–2431–000]

Take notice that Indeck-Ilion Limited Partnership (Indeck-Ilion) tendered for filing an initial rate schedule and request for certain waivers and authorizations pursuant to Section 35.12 of the regulations of the Federal Energy Regulatory Commission (the Commission). The initial rate schedule provides for market-based sales to wholesale purchasers of the output of a 58 MW natural gas and No. 2 oil fueled power generation facility located near Ilion, New York. Indeck-Ilion requests that the Commission set an effective date for the rate schedule coincident with the closing of the transaction which is the subject of the Docket No. EC01–91–000 proceeding.

A copy of the filing was served upon the New York State Public Service Commission .

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. California Independent System Operator Corporation

[Docket No. ER01–2432–000]

Take notice that on June 27, 2001, the California Independent System Operator Corporation (ISO) tendered for filing Second Revised Service Agreement No. 172 Under ISO Rate Schedule No. 1,

which is a Participating Generator Agreement (PGA) between the ISO and Sierra Pacific Industries (Sierra Pacific). The ISO has revised the PGA to update the list of generating units listed in Schedule 1 of the PGA. The ISO requests that the agreement be made effective as of June 28, 2001.

The ISO states that this filing has been served upon all parties in Docket No. ER98–4273.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. California Independent System Operator Corporation

[Docket No. ER01–2433–000]

Take notice that on June 27, 2001, the California Independent System Operator Corporation (ISO) tendered for filing Second Revised Service Agreement No. 32 Under ISO Rate Schedule No. 1, which is a Participating Generator Agreement (PGA) between the ISO and Pacific Gas and Electric Company (PG&E). The ISO has revised the PGA to update the list of generating units listed in Schedule 1 of the PGA. The ISO requests that the agreement be made effective as of June 28, 2001.

The ISO states that this filing has been served upon all parties in Docket No. ER98–1002.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. California Independent System Operator Corporation

[Docket No. ER01–2434–000]

Take notice that on June 27, 2001, the California Independent System Operator Corporation (ISO) tendered for filing Second Revised Service Agreement No. 201 Under ISO Rate Schedule No. 1, which is a Participating Generator Agreement (PGA) between the California Independent System Operator Corporation (ISO) and Harbor Cogeneration Company (Harbor Cogeneration). The ISO has revised the PGA to update the list of generating units listed in Schedule 1 of the PGA. The ISO requests that the agreement be made effective as of June 28, 2001.

The ISO states that this filing has been served upon all parties in Docket No. ER99–1880.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. American Transmission Company LLC

[Docket No. ER01–2435–000]

Take notice that on June 27, 2001, American Transmission Company LLC (ATCLLC) tendered for filing proposed changes to its Open Access Transmission Tariff to create a fifth rate zone encompassing the Upper Peninsula Power Company (UPPCO) service area and begin implementation of the phase-in of the UPPCO rate to the ATCLLC system average rate. ATCLLC requests an effective date of June 29, 2001.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Ameren Services Company

[Docket No. ER01–2436–000]

Take notice that on June 27, 2001, Ameren Services Company (ASC) tendered for filing a Service Agreement for Firm Point-to-Point Transmission Services between ASC and Ameren Energy, Inc. (customer). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to customer pursuant to Ameren's Open Access Transmission Tariff.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Summersville Hydroelectric Project

[Docket No. ER01–2438–000]

Take notice that on June 27, 2001, Gauley River Power Partners, L.P. on behalf of itself, the City of Summersville, West Virginia, and Noah Corp. (Applicants) tendered for filing with the Federal Energy Regulatory Commission revisions to the Summersville Hydroelectric Project FERC Rate Schedule No. 1, an Agreement for the Sale and Purchase of Electric Energy between Applicants and Appalachian Power Company (APCo) and for certain blanket authorizations and waivers of the Commission regulations. The proposed revisions extend the deadline for commercial operation of the Project, provides for the payment of liquidated damages for delays in commercial operations, reduces the term of the Agreement, and modifies the energy charges during years 21 through 26 of the Agreement. The proposed revisions are necessary due to delays in Project construction.

Copies of this filing were served on the Appalachian Power Company and the Public Service Commission of West Virginia.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Equitec Power, LLC

[Docket No. ER01–2439–000]

Take notice that on June 27, 2001, Equitec Power, LLC, (Equitec Power) petitioned the Commission for acceptance of Equitec Power Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Xcel Energy Services, Inc.

[Docket No. ER01–2440–000]

Take notice that on June 27, 2001, Xcel Energy Services, Inc. (XES), on behalf of Southwestern Public Service Company (Southwestern), submitted for filing a Transaction Agreement between Southwestern and West Texas Municipal Power Agency. XES requests that this agreement become effective on June 5, 2001.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. AES Medina Valley Cogen, L.L.C.

[Docket No.ER01–2441–000]

Take notice that AES Medina Valley Cogen, L.L.C. (AES Medina), 300 Liberty Street, Peoria, Illinois 61602, on June 27, 2001 tendered for filing with the Commission one service agreement with one new customer, Morgan Stanley Capital Group, Inc. Copies of the filing were served on the affected customer and the Illinois Commere Commission.

CILCO requested an effective date of May 25, 2001.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER01–2442–000]

Take notice that on June 27, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) filed Service Agreement No. 136 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services. Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Allegheny Energy Supply requests a waiver of notice requirements for an effective date of June 12, 2001 for MidAmerican Energy Company.

Allegheny Energy Supply requests a waiver of notice requirements for an effective date of June 12, 2001 for MidAmerican Energy Company.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17307 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2437–000, et al.]

Ameren Services Company, et al.; Electric Rate and Corporate Regulation Filings

July 3, 2001.

Take notice that the following filings have been made with the Commission:

1. Ameren Services Company

[Docket No. ER01–2437–000]

Take notice that on June 27, 2001, Ameren Services Company (ASC) tendered for filing a Network Integration Transmission Service Agreement between ASC and EnerStar Power Corporation. ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to unbundled Illinois retail customers of EnerStar Power Corporation pursuant to Ameren's Open Access Tariff.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Sempra Energy Resources

[Docket No. ER01–2443–000]

Take notice that on June 28, 2001, Sempra Energy Resources (SER), tendered for filing Service Agreement No. 1 to its FERC Electric Rate Schedule No. 1, which authorized SER to make sales at market-based rates.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Tri-State Power, LLC

[Docket No. ER01–2444–000]

Take notice that on June 27, 2001, Tri-State Power, LLC (TSP) petitioned the Commission for acceptance of TSP Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations. TSP intends to engage in wholesale electric power and energy sales as a marketer.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Michigan Electric Transmission Company

[Docket No. ER01–2445–000]

Take notice that on June 28, 2001, Michigan Electric Transmission Company (Michigan Transco) tendered for filing a First Revised Michigan Transco Electric Rate Schedule FERC No. 6. The revision eliminates periodic facilities charges, effective May 1, 2001. Michigan Transco requests an effective date of May 1, 2001, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Northern, the Michigan Public Service Commission and the Indiana Utility Regulatory Commission.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. PJM Interconnection, L.L.C.

[Docket No. ER01–2446–000]

Take notice that on June 28, 2001, PJM Interconnection, L.L.C. (PJM), tendered for filing an executed umbrella service agreement for network integration transmission service under state required retail access programs for BP Energy Company (BP Energy).

Copies of this filing were served upon BP Energy and the state commissions within the PJM control area.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Company

[Docket No. ER01–2447–000]

Take notice that on June 28, 2001, New England Power Company (NEP) submitted for filing a service agreement between NEP and ANP Bellingham Energy Company, LLC (ANP) for network integration transmission service under NEP's FERC Electric Tariff, Second Revised Volume No. 9, Original Service Agreement No. 203.

Copies of the filing were served upon ANP and the Department of Telecommunications and Energy of the Commonwealth of Massachusetts.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Equitec Power, LLC

[Docket No. ER01–2439–000]

Take notice that on June 27, 2001, Equitec Power, LLC, (Equitec Power) petitioned the Commission for acceptance of Equitec Power Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Comment date: July 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Southwest Power Pool, Inc.

[Docket No. ER01–2448–000]

Take notice that on June 28, 2001, Southwest Power Pool, Inc. (SPP) submitted for filing an executed service agreement for Firm point-to-Point Transmission Service with Southwestern Public Service Marketing (Transmission Customer). SPP seeks an effective date of August 1, 2001 for this service agreement.

Copies of this filing was served on the Transmission Customer.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Golden Spread Electric Cooperative, Inc.

[Docket No. ER01–2449–000]

Take notice that on June 28, 2001, Golden Spread Electric Cooperative, Inc. (Golden Spread) tendered for filing a long-term Service Agreement between Golden Spread and South Plains Electric Cooperative, Inc. Golden Spread requests that the Commission accept

this filing as a service agreement under the Golden Spread's FERC Electric Tariff, Original Volume No. 1. Golden Spread requests an effective date of June 1, 2001. A copy of this filing has been served on South Plains.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. TXU Electric Company

[Docket No. ER01–2450–000]

Take notice that on June 28, 2001, TXU Electric Company (TXU Electric) tendered for filing executed transmission service agreements (TSAs) with El Paso Merchant Energy, L.P. (El Paso Energy) and AXIA Energy, L.P. (AXIA Energy) for certain transmission service transactions under TXU Electric's Tariff for Transmission Service To, From and Over Certain HVDC Interconnections.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Emmett Power Company

[Docket No. ER01–2451–000]

Take notice that on June 28, 2001, Emmett Power Company (EPC) tendered for filing a petition for acceptance of an initial rate schedule authorizing EPC to make wholesale sales of power at market-based rates, requests for waivers and blanket authority typically granted to market-based rate authorized entities, and a request for an effective date for its market-based rate authorization as of July 1, 2001.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Virginia Electric and Power Company

[Docket No. ER01–2452–000]

Take notice that on June 28, 2001, Virginia Electric and Power Company (Dominion Virginia Power or the Company) tendered for filing the Service Agreement for Non-Firm Point-to-Point Transmission Service by Virginia Electric and Power Company. The Company request an effective date of June 28, 2001.

Copies of the filing were served upon Topaz Energy Associates, LLC, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. PacifiCorp

[Docket No. ER01–2453–000]

Take notice that PacifiCorp on June 28, 2001, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations a proposed change to its open access transmission tariff, PacifiCorp's FERC Electric Tariff, Second Revised Volume No. 11 (Tariff). The revision proposes to eliminate the use of the California ISO prices in calculating hour-to-hour deviations for financial settlement of energy imbalance and real power losses.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Exelon Generation Company, LLC

[Docket No. ER01–2454–000]

Take notice that on June 28, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted an amendment to a service agreement between Exelon Generation and PECO Energy Company under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff First Revised Volume No. 1.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. EWO Marketing, L.P.

[Docket No. ER01–2456–000]

Take notice that on June 28, 2001, EWO Marketing, L.P. submitted for filing a request for a limited, temporary waiver of the information sharing restriction of its code of conduct. The waiver is requested for the narrow purpose of allowing EWOM to participate in a corporate unbundling mandated by Texas law. Copies of this filing have been served on the Arkansas Public Service Commission, Mississippi Public Service Commission, Louisiana Public Service Commission, Public Utility Commission of Texas, and the Council of the City of New Orleans.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. PSEG Lawrenceburg Energy Company LLC

[Docket No. ER01–2460–000]

Take notice that on June 28, 2001, PSEG Lawrenceburg Energy Company LLC tendered for filing an application for waivers and blanket approvals under various regulations of the Commission and for an Order accepting its FERC Electric Tariff, Original Volume No. 1. PSEG Lawrenceburg proposes that its FERC Electric Tariff, Original Volume No. 1. 1 become effective upon commencement of service of its generation project potentially totaling 1150 MW located in Dearborn County, Indiana (the Lawrenceburg Facility). The Lawrenceburg Facility is expected to be commercially operational in the spring of 2003.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Puget Sound Energy, Inc.

[Docket Nos. OA96–161–000, ER96–697–001, ER96–1456–001, and ER97–4468–000 (Consolidated)]

Take notice that on June 29, 2001, Puget Sound Energy, Inc. (PSE) tendered for filing a revised Open Access Transmission Tariff (OATT). The revised OATT implements the settlement of issues in the above-referenced dockets, including, but not limited to, segmentation and annual peak issues. PSE requests an effective date of June 29, 2001 for the filing.

A copy of the filing was served upon all parties in the above-referenced dockets.

Comment date: July 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. PSEG Waterford Energy LLC

[Docket No. ER01–2482–000]

Take notice that on June 28, 2001, PSEG Waterford Energy LLC tendered for filing an application for waivers and blanket approvals under various regulations of the Commission and for an Order accepting its FERC Electric Tariff, Volume No. 1. PSEG Waterford proposes that its FERC Electric Tariff, Original Volume No. 1 become effective upon commencement of service of its generation project potentially totaling 850MW located in Washington County, Ohio (the Waterford Facility). The Waterford Facility is expected to be commercially operable in phases with the facility operating in single-cycle mode during the summer of 2002, and then in combined-cycle mode beginning in 2003.

PSEG Waterford intends to sell energy and capacity from the PSEG Waterford Facility in the wholesale power market at market-based rates, and on such terms and conditions to be mutually agreed to with the purchasing party.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. The Detroit Edison Company

[Docket Nos. EL01–51–003 and ER01–1649–003]

Take notice that on June 29, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing with the Federal Energy Regulatory Commission

(Commission) a compliance filing in accordance with the Commission's order in Detroit Edison Company, 95 FERC ¶ 61,415 (2001).

Comment date: July 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. MPC Generating, LLC

[Docket No. EG01–250–000]

Take notice that on June 28, 2001, MPC Generating, LLC (Applicant) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The applicant is a limited liability company that will engage directly or indirectly and exclusively in the business of owning and/or operating eligible facilities in the United States and selling electric energy at wholesale. The applicant proposed to own and operate an approximately 155 megawatt gas-fired combustion turbine located in Monroe, Georgia. The applicant seeks a determination of its exempt wholesale generator status. All electric energy sold by the applicant will be sold exclusively at wholesale.

Comment date: July 24, 2001, in accordance with Standard Paragraph E at the end of this notice. The commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

21. DeSoto County Generating Company, LLC

[Docket No. EG01–251–000]

Take notice that on June 29, 2001, DeSoto County Generating Company, LLC (Applicant), 410 South Wilmington Street, Raleigh, NC 27602, tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The applicant is a limited liability company that will engage directly or indirectly and exclusively in the business of owning and/or operating eligible facilities in the United States and selling electric energy at wholesale. The applicant proposed to own and operate an approximately 380 megawatt gas-fired combustion turbine to be located in DeSoto County, Florida. The applicant seeks a determination of its exempt wholesale generator status. All electric energy sold by the applicant will be sold exclusively at wholesale.

Comment date: July 24, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

22. Central Maine Power Company

[Docket No. ER01–1795–001]

Take notice that on June 28, 2001, Central Maine Power Company (CMP) resubmitted for filing the First Amendment to the Interconnection Agreement by and between CMP and Boralex Athens Energy, Inc., conformed to the requirements of Order 614, and designated rate schedule FERC Electric Tariff, Fifth Revised, Volume No. 3, Service Agreement No. 35.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Cogentrix Lawrence County, LLC

[Docket No. ER01–1819–001]

Take notice that on June 28, 2001, Cogentrix Lawrence County, LLC (Lawrence County), an electric power developer organized under the laws of Delaware, filed a letter amending its petition for order accepting market-based rate tariff filed on April 18, 2001 in this proceeding.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Mid-Continent Area Power Pool

[Docket No. ER01–2189–000]

Take notice that on June 28, 2001, the Mid-Continent Area Power Pool (MAPP) filed to amend its May 31, 2001, filing in the above-referenced proceeding to withdraw long-term firm service agreements with Ameren Energy Marketing, Black Hills Power and Conoco Gas and Power Marketing.

A copy of this filing has been served on each individual designated on the Commission's service list in the above-captioned proceeding. MAPP has also mailed a copy of this filing to Ameren Energy Marketing, Black Hills Power and Conoco Gas and Power Marketing.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. Mid-Continent Area Power Pool

[Docket No. ER01–2195–001]

Take notice that on June 28, 2001, Mid-Continent Area Power Pool (MAPP) submitted for filing a substitute sheet to its Settlement Tariff, filed on June 1, 2001, in the above-referenced docket. The substitute sheet reflects the correction of a technical error contained in the original version.

Copies of this filing have been served on those parties listed on the official service list in this proceeding and the state commissions in the MAPP region.

Comment date: July 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. Elwood Energy LLC, Elwood Energy II, LLC, Elwood Energy III, LLC, Dominion Energy, Inc., DGI Holdings, Inc., Dominion Elwood, Inc., Dominion Elwood II, Inc., Dominion Elwood III, Inc., Peoples Elwood, LLC, Peoples Elwood II, LLC, Peoples Elwood III, LLC

[Docket No. EC01–121–000]

Take notice that on June 22, 2001, Elwood Energy LLC, Elwood Energy II, LLC, Elwood Energy III, LLC (Project Entities), Dominion Energy, Inc., DGI Holdings, Inc., Dominion Elwood, Inc., Dominion Elwood II, Inc. and Dominion Elwood III, Inc. (collectively, Dominion Applicants), and Peoples Elwood, LLC, Peoples Elwood II, LLC and Peoples Elwood III, LLC (collectively, PEC Applicants) (Project Entities, Dominion Applicants and Peoples Applicants collectively, the Applicants) filed with the Federal Energy Regulatory Commission (Commission) a joint application (Application) pursuant to Section 203 of the Federal Power Act for authorization of mergers among the Project Entities with Elwood Energy LLC as the surviving entity and related transfers of jurisdictional facilities, and certain related mergers among the Dominion Applicants and among the PEC Applicants, who are upstream entities that own, directly or indirectly, interests in the Project Entities. All of the Project Entities are exempt wholesale generators that own natural gas-fired peaking generation facilities, limited interconnection facilities and Commission jurisdictional contracts. Elwood Energy, LLC, Elwood Energy II, LLC and Elwood Energy III, LLC own 600 MW, 300 MW and 450 MW, respectively, of natural gas-fired peaking generation facilities located in Elwood, Illinois. All of the Project Entities are owned directly or indirectly, 50 percent by the Dominion Applicants and 50 percent by the PEC Applicants. The Dominion Applicants are wholly-owned, direct or indirect subsidiaries of Dominion Resources, Inc. The PEC Applicants are wholly-owned, direct or indirect subsidiaries of Peoples Energy Corporation.

Comment date: July 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the

Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–17308 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 77–110; California]

Pacific Gas and Electric Company; Notice of Application Tendered for Filing with the Commission and Soliciting Comments

July 5, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Amendment to License Amendment Application.

b. *Project No.:* 77–110.

c. *Date filed:* June 14, 2001.

d. *Applicant:* Pacific Gas and Electric Company.

e. *Name of Project:* Potter Valley Hydroelectric Project.

f. *Location:* Eel River and East Fork Russian River, in Mendocino and Lake counties, California. The project is partially located within the Mendocino National Forest, on federal lands administered by the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791 (a)–825(r).

h. *Applicant Contact:* Ms. Rhonda Shiffman, Project Manager, Pacific Gas and Electric Company, P.O. Box 770000, Mail Code N11C, San Francisco, CA 94177, (415) 973–5852.

i. *FERC Contact:* John Mudre, E-mail address *john.mudre@ferc.fed.us,* or telephone (202) 219–1208.

j. *Deadline Date:* August 6, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission 888, First Street, NE., Washington DC 20426.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description:* On March 31, 1998, Pacific Gas and Electric Company (PG&E) filed an application to amend its license for the Potter Valley Hydroelectric Project in order to increase minimum flow releases to the Eel River to benefit anadromous salmonids therein. Commission staff subsequently prepared an Environmental Impact Statement to analyze the impacts of the proposed alternative and five other alternatives. The EIS recommended a proposal proposed by PG&E and the Potter Valley Irrigation District (PVID; the PG&E/PVID proposal) as the preferred alternative. Pursuant to Section 7 of the Endangered Species Act, Commission staff entered into formal consultation with the National Marine Fisheries Service (NMFS) on the effects of the proposed agency action on listed salmonids in the Eel and Russian rivers. The proposed modification of the PG&E/PVID proposal that is the subject of this notice was developed as a result of discussions among PG&E, NMFS, the California Department of Fish and Game, the U.S. Fish and Wildlife Service and others during the pendency of the formal consultation. The modifications to the proposal are intended to address concerns raised by the NMFS in their November 21, 2000, draft biological opinion.

Our preliminary analysis suggests that the scope of environmental impacts associated with this modified proposal would be within the range of effects of the alternatives considered in our May 2000 FEIS, in particular, between the PG&E/PVID alternative and the DOI/NMFS alternative. Should further review of the modified proposal confirm that finding, Commission staff would conduct no further NEPA review, finish ESA formal consultation, and present the matter to the Commission for decision.

To assist us in our review of the modified proposal, we are soliciting comments from resource agencies and other interested parties on the modified proposal. These comments will be considered in conjunction with our technical review of the modified proposal as we decide whether further NEPA analysis is warranted, and whether we should adopt the modified proposal as our proposed agency action.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on *http://rimsweb1.ferc.gov/rims* (call (202)208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

David P. Boergers,

Secretary.

[FR Doc. 01–17310 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Temporary Variance Request and Soliciting Comments, Motions to Intervene, and Protests

July 5, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request For Temporary Variance of Article 401.

b. *Project No.:* 2514–065.

c. *Date filed:* June 22, 2001.

d. *Applicant:* American Electric Power.

e. *Name of Project:* Byllesby-Buck Project.

f. *Location:* On the New, Carroll County, Virginia. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* 18 CFR § 4.200.

h. *Applicant Contact:* Frank M. Simms, American Electric Power, 1 Riverside Plaza, Columbus, OH 43215–2373, (614) 223–2918.

i. *FERC Contact:* Hillary Berlin, hillary.berlin@ferc.fed.us, 202–219–0038.

j. *Deadline for filing comments, motions to intervene and protest:* (August 11, 2001).

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. Please include the project number (2514–065) on any comments or motions filed.

k. *Description of Application:* Article 401 currently requires the licensee to operate both project developments, Byllesby and Buck, within certain reservoir surface elevations. The licensee is planning maintenance work for the Byllesby development that would require operating between elevations 2070.0 feet and 2071.0 feet NGVD, approximately eight feet below the reservoir surface elevations allowed under article 401, for 60 days. The proposed work is intended to begin July 9, 2001 and September 7, 2001. The licensee filed an Applicant Prepared Environmental Assessment with this filing, which concludes that the proposed temporary lowering of the reservoir should have no significant impacts on environmental resources.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((202) 208–2222 for assistance).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–17311 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

July 5, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12049–000.

c. *Date filed:* June 8, 2001.

d. *Applicant:* Ameren Development Company.

e. *Name and Location of Project:* The Church Mountain Project would be located on Taum Sauk Creek in Reynolds County, Missouri.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

g. *Applicant contact:* Mr. Thomas P. Callahan, One Ameren Plaza, 1901 Chouteau Avenue, P.O. Box 66149, St. Louis, MO 63166–6149, (314) 554–2218, fax (314) 554–3260.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Please include the project number (P–12049–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed pumped storage project would consist of: (1) a proposed 12,350-foot-long, 90-foot-high upper reservoir dam located on Church Mountain, (2) a proposed 1,900-foot-long, 100-foot-high lower reservoir dam constructed across Taum Sauk Creek, (3) a proposed upper reservoir having a surface area of 130 acres, with a storage capacity of 10,250 acre-feet and a normal water surface elevation of 1,640 feet msl, (4) a proposed lower reservoir having a surface area of 400 acres, with storage capacity of 16,130 acre-feet and normal water surface elevation of 900 feet msl, (5) a proposed powerhouse having a total installed capacity of 770 MW, (6) a proposed one-quarter-mile-long, 345 kV transmission line; and (10) appurtenant facilities. The project would have an average annual generation of 1,500 GWh.

k. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((202) 208–2222 for assistance).

l. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the

competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–17312 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Protests

July 5, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 12051–000.

c. *Date Filed:* June 11, 2001.

d. *Applicant:* JDJ Energy Company.

e. *Name of Project:* Riverton Water Power Project.

f. *Location:* On Spring River, Shoal Creek, and Empire Lake, in Cherokee County, Kansas. No federal facilities or lands would be used.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § § 791(a)–825(r).

h. *Applicant Contact:* Mr. Stewart Noland, 1405 N. Pierce, Suite 301, Little Rock, AR 72207 (501) 664–1552.

i. *FERC Contact:* Regina Saizan, (202) 219–2673.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Please include the Project Number (12051–000) on any comments, protests, or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Competing Application:* Project No. 12046–000, Date Filed: June 4, 2001, Due Date: September 3, 2001.

l. *Description of Project:* The proposed project would consist of: (1) an existing concrete dam section (south abutment) approximately 25-feet high, 56-feet long; (2) an existing spillway section 267-feet long with five stop logs; (3) 2 existing water box sections each approximately 102-feet long, integral with 4 draft tubes; (4) an existing earth dam section (north abutment) approximately 10 feet high, 800 feet long, with 3-feet wide core and 10-feet high concrete core; (5) an existing auxiliary dam approximately 1100-feet long, 25-feet high that acts as a overflow spillway; (6) an existing 69-foot-long, 40-foot-high powerhouse integral with the dam housing 2 new 1,125 kW generating units for a total installed capacity of 2250 kW; (7) a new 150-foot-long, 13.8-kV transmission line; and (8) appurtenant facilities.

The project would have an annual generation of 9 GWh.

m. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((202) 208–2222 for assistance). A copy is also available for

inspection and reproduction at the address in item h above.

n. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–17313 Filed 7–10–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100172; FRL–6791–2]

Vistronix, Inc. and Labat-Anderson, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be tranferred to Vistronix, Inc. and its subcontractor, Labat-Anderson, Inc. in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Vistronix, Inc. and its subcontractor, Labat-Anderson, Inc., have been awarded a contract to perform work for OPP, and access to this information will enable Vistronix, Inc. and its subcontractor, Labat-Anderson, Inc., to fulfill the obligations of the contract.

DATES: Vistronix, Inc. and its subcontractor, Labat-Anderson, Inc., will be given access to this information on or before July 16, 2001.

FOR FURTHER INFORMATION CONTACT: By mail: Erik R. Johnson, FIFRA Security Officer, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-7248; e-mail address: johnson.erik@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

II. Contractor Requirements

Under Contract No. 68–W0–1002/000, Vistronix, Inc. and its subcontractor, Labat-Anderson, Inc., will perform the following based on the statement of work:

The Information Services Branch (ISB) of the Information Resources and Services Division (IRSD) is responsible for providing records management guidance and support throughout OPP. ISB works closely with OPP managers and staff to develop program wide policies and procedures for managing OPP records, and to ensure program practices are consistent with Agency and Federal record keeping requirements.

To assist in this effort, ISB shall use contractor services to perform records management support services for OPP. Specifically, contractor services will be used to assist the conversion of paper records to electronic records. This record conversion project will also entail electronic file conversion and electronic file renaming projects. Contractor shall also support OPP in the processing of a backlog of pesticide incident reports, and other general records management tasks as needed. The contractor shall perform all work on site using government furnished equipment including OPP, Agency and off the shelf software applications.

The OPP has determined that access by Vistronix, Inc. and its subcontractor, Labat-Anderson, Inc., to information on

all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Vistronix, Inc. and its subcontractor, Labat-Anderson, Inc., prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Vistronix, Inc. and its subcontractor, Labat-Anderson, Inc., are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Vistronix, Inc. and its subcontractor, Labat-Anderson, Inc., until the requirements in this document have been fully satisfied. Records of information provided to Vistronix, Inc. and its subcontractor, Labat-Anderson, Inc., will be maintained by EPA Project Officers for this contract. All information supplied to Vistronix, Inc. and its subcontractor, Labat-Anderson, Inc., by EPA for use in connection with this contract will be returned to EPA when Vistronix, Inc. and its subcontractor, Labat-Anderson, Inc., have completed their work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: June 26, 2001.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 01–17206 Filed 7–10–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7010–5]

Notice of Open Meeting; Environmental Financial Advisory Board; August 6–8, 2001

The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold an open meeting of the full Board in San Francisco, California on August 6–7, 2001. The meeting will be held at the Bankers Club, Bank of America World Headquarters Building, Pacific Room. The Monday, August 6 session will run from 9 a.m. 5 p.m. and the Tuesday, August 7 session will begin at 8:30 a.m. and end at approximately 12 noon. The purpose of the August 6–7 meeting is to discuss progress with work products under EFAB's current strategic action agenda and to develop an action agenda to direct the Board's future activities. Environmental financing topics expected to be discussed include: Cost-Effective Environmental Management; Brownfields Redevelopment; International Environmental Financing; Environmental Stewardship; and Financing Water and Wastewater Infrastructure.

On Wednesday, August 8, EFAB is hosting a roundtable on Environmental Stewardship. For some time, EFAB has been considering economic incentives and financial mechanisms that encourage the adoption of sound environmental stewardship practices on private property. The Board will collect information and insights from a group of informed panelists who will share their perspectives on environmental stewardship. The roundtable will begin at 9 a.m. and end at approximately 4:30 p.m. The roundtable is being held at the EPA Region 9 Office, 75 Hawthorne Street, Strategy Room R–1809, 18th Floor, San Francisco, CA.

Both meetings are open to the public, but seating is limited. For further information, please contact Vanessa Bowie, EFAB Coordinator, U.S. EPA on (202) 564–5186.

Dated: July 3, 2001.

Joseph Dillon,

Comptroller.

[FR Doc. 01–17335 Filed 7–10–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7010–7]

Meeting of the Ozone Transport Commission for the Northeast United States

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency is announcing the 2001 Annual Meeting of the Ozone Transport Commission. This meeting is for the Ozone Transport Commission to deal with appropriate matters within the Ozone Transport Region in the Northeast and Mid-Atlantic States, as provided for under the Clean Air Act Amendments of 1990. This meeting is not subject to the provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended.

DATES: The meeting will be held on July 24, 2001 starting at 8:45 a.m. (DST).

ADDRESSES: The Hyatt Regency Newport, One Goat Island, Newport, Rhode Island, 02840; (401) 851–1234.

FOR FURTHER INFORMATION CONTACT: Judith M. Katz, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103; (215) 814–2100.

For Documents and Press Inquiries Contact: Ozone Transport Commission, 444 North Capitol Street NW., Suite 638,Washington, DC 20001; (202) 508–3840; e-mail: ozone@sso.org; website: http://www.sso.org/otc.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at Section 184 provisions for the ''Control of Interstate Ozone Air Pollution.'' Section 184(a) establishes an ''Ozone Transport Region'' (OTR) comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia.

The Assistant Administrator for Air and Radiation of the Environmental Protection Agency convened the first meeting of the commission in New York City on May 7, 1991. The purpose of the Ozone Transport Commission is to deal with ground level ozone formation, transport, and control within the OTR.

The purpose of this notice is to announce that this Commission will meet on July 24, 2001. The meeting will be held at the address noted earlier in this notice.

Section 176A(b)(2) of the Clean Air Act Amendments of 1990 specifies that the meetings of the Ozone Transport Commission are not subject to the provisions of the Federal Advisory Committee Act. This meeting will be open to the public as space permits.

Type of Meeting: Open.

Agenda: Copies of the final agenda will be available from the OTC office (202) 508–3840 (by e-mail: ozone@sso.org or via our website at http://www.sso.org/otc) on Tuesday, July 17, 2001. The purpose of this meeting is to review air quality needs within the Northeast and Mid-Atlantic States, including reduction of motor vehicle and stationary source air pollution. The OTC is also expected to address issues related to the transport of ozone into its region, including actions by EPA under Sections 110 of the Clean Air Act, and to discuss potential regional emission control measures.

Thomas C. Voltaggio,

Acting Regional Administrator, EPA Region III.

[FR Doc. 01–17338 Filed 7–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–7009–9]

New Source Review—90-Day Review and Report to the President

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: On Wednesday, June 27, 2001, EPA published two notices in the **Federal Register** addressing the Report to the President on the impacts of the New Source Review (NSR) permitting program on utility and refinery capacity, energy efficiency, and environmental protection. The first notice, at 66 FR 34183, was a notice of public meetings. The second notice, at 66 FR 34191, was a notice of availability and opportunity to comment on a background paper. The EPA is issuing this notice to make several corrections to those two notices. The corrections address: (1) Times for additional evening sessions at each of four public meetings, (2) an incorrect fax number for the public docket, and (3) a clarification that the NEPD group recommended, but did not direct, the 90-day review of NSR.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Ling, Office of the Director, Information Transfer and Program Integration Division (MD–12), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number 919–542–4729.

Corrections

1. In the **Federal Register** of June 27, 2001, in the Notice of Public Meeting, FR Doc. No. 01–16268, the language in the sentence that begins on page 34183 col. 3 and continues on page 34184 col. 1, ''The National Energy Policy Development Group, under the direction of Vice President Richard Cheney, has directed EPA in consultation with the Secretary of Energy and other relevant agencies, to review * * *.'' is corrected to:

At the direction of the EPA Administrator, EPA, in consultation with the Secretary of Energy and other relevant agencies, is reviewing * * *

2. In the **Federal Register** of June 27, 2001, in the Notice of Public Meeting, FR Doc. No. 01–16268, on page 34184, in the first column, correct the **DATES** caption to read:

DATES: The public meeting dates are:

1. July 10, 2001, 9:30 a.m. to 4 p.m., and 6:30 p.m. to 7:30 p.m., Cincinnati, OH
2. July 12, 2001, 9:30 a.m. to 4 p.m. and 6:30 p.m. to 7:30 p.m., Sacramento, CA
3. July 17, 2001, 9:30 a.m. to 4 p.m. and 6:30 p.m. to 7:30 p.m., Boston, MA
4. July 20, 2001, 9:30 a.m. to 4 p.m. and 6:30 p.m. to 7:30 p.m., Baton Rouge, LA and correct the **ADDRESSES** caption immediately following to read:

ADDRESSES: The public meeting locations are:

1. Cincinnati-Day Session: Hyatt Regency (Regency Ballroom, Sections E and F), 151 West Fifth Street, Cincinnati, OH 45202; Evening Session: Omni Netherland Plaza, 35 West Fifth Street, Cincinnati, OH 45202.

2. Sacramento-Day Session: Red Lion Hotel, Sacramento (Martinique Ballroom), 1401 Arden Way Sacramento, CA 95815; Evening Session: Same as Day Session.

3. Boston-Day Session: DoubleTree Guest Suites Boston (Charles River Ballroom), 400 Soldiers Field Road, Boston, MA 02134; Evening Session: Same as Day Session.

4. Baton Rouge-Day Session: Holiday Inn South (The Grand Ballroom), 9940 Airline Highway, Baton Rouge, LA 70816; Evening Session: Same as Day Session.

3. In the **Federal Register** of June 27, 2001, in the Notice of Availability and Opportunity to Comment, FR Doc. No. 01–16267, the language in the sentence on page 34192 col. 1, ''The National Energy Policy Development Group, under the direction of Vice President Richard Cheney, has directed EPA, in consultation with the Secretary of Energy and other relevant agencies, to review * * *.'' is corrected to:

At the direction of the EPA Administrator, EPA, in consultation with the Secretary of Energy and other relevant agencies, is reviewing * * *.''

4. In the **Federal Register** of June 27, 2001, in the Notice of Availability and Opportunity to Comment, FR Doc. No. 01–16267, on page 34192, in the first column, under the **ADDRESSES** caption, correct the fax number for the Air and Radiation Docket and Information Center to: fax: (202) 260–4400.

SUPPLEMENTARY INFORMATION: On June 27, 2001, the Environmental Protection Agency published two notices in the Federal Register that deal with the Agency's review of the New Source Review permitting program to assess its impact on new utility and refinery generation capacity, energy efficiency, and environmental protection. The ''Summary'' sections of each of the notices incorrectly state that ''The National Energy Policy Development Group, under the direction of Vice President Richard Cheney, has directed EPA, in consultation with the Secretary of Energy and other relevant agencies, to review the Agency's New Source Review (NSR) program, including administrative interpretation and implementation, and report to the President within 90 days on the impact of the regulations on investment in new utility and refinery generation capacity, energy efficiency, and environmental protection.'' Because the National Energy Policy Development Group does not have authority to issue direction to EPA, this document corrects the notices to indicate that this review is being done under the direction of the EPA Administration. The first and third corrections in this notice address this issue.

The second correction in this notice identifies additional hours for the public meetings on the EPA's review of NSR. In addition to the day sessions identified in the June 27 notice, there will also be evening sessions from 6:30 to 7:30 each evening in each of the four cities for which public meetings are scheduled. Locations are also provided for the evening sessions. The most current information about the public meetings is available on the Internet at the following address: http://www.epa.gov/air/nsr-review.

Finally, the fourth correction in this notice corrects an improperly reported fax number for use submitting comments to the Air and Radiation

Docket and Information Center. When submitting comments in any form, please specific docket number A–2001–19.

Dated: July 6, 2001.

Linda J. Fisher,

Deputy Administrator.

[FR Doc. 01–17334 Filed 7–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7010–4]

Divex Superfund Site Notice to Rescind Previous Federal Register Notice

AGENCY: Environmental Protection Agency.

ACTION: Notice to Rescind Previous Federal Register Notice.

SUMMARY: On June 25, 2001, the Environmental Protection Agency (EPA) published a Notice of Proposed Settlement for response cost incurred by the EPA at the Divex Superfund Site (site) located in Columbia, South Carolina. The purpose of this notice is to rescind EPA's June 25, 2001 **Federal Register** Notice at (66 FR 33684) regarding the settlement of response costs at the Site. The Notice of Proposed Settlement for the Site may be republished in the future following final approval of the settlement.

Date June 28, 2001.

Franklin E. Hill,

Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 01–17337 Filed 7–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7009–4]

Public Water System Supervision Program Revision for the State of Mississippi

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Mississippi is revising its approved Public Water System Supervision Program. Mississippi has adopted drinking water regulations requiring consumer confidence reports from all community water systems, revised its administrative penalty (AP) authority, and revised its definition of a public water system. EPA has determined that these revisions are no less stringent than the corresponding federal regulations. Therefore, EPA intends on approving this State program revision.

All interested parties may request a public hearing. A request for a public hearing must be submitted by August 10, 2001 to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by August 10, 2001, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on August 10, 2001. Any request for a public hearing shall include the following information: (1) the name, address, and telephone number of the individual organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing, and (3) the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Mississippi State Department of Health, Office of Environmental Health, Division of Water Supply, 570 E. Woodrow Wilson Blvd., Underwood Building, Suite 232, Jackson, Mississippi 39215–1700 or at the Environmental Protection Agency, Region 4, Drinking Water Section, 61 Forsyth Street SW, Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Shaun McMullen, EPA Region 4, Drinking Water Section at the Atlanta address given above or at telephone (404) 562–9294.

Authority: (Section 1420 of the Safe Drinking Water Act, as amended (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations).

Dated: June 8, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–17200 Filed 7–10–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

July 3, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before September 10, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, S.W., Room 1–A804, Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0662.

Title: Section 21.930 Five year build-out requirements.

Form No.: n/a.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 450.

Estimated Hours Per Response: 4 hours (1 hour respondent, 3 hours consulting engineer).

Frequency of Response: on occasion.

Cost to Respondents: $202,500.

Estimated Total Annual Burden: 450.

Needs and Uses: A BTA authorization holder has a five-year build-out period, beginning on the date of the grant of the BTA authorization and terminating on the 5th year anniversary of the grant of the authorization, within which it may develop and expand MDS station operations within its service area. Section 21.930(c) requires the BTA holder to file with the Commission a demonstration that the holder has met construction requirements. This demonstration must be filed sixty days prior to the end of the five year build-out period. On June 14, 2001, the Commission's Mass Media Bureau adopted a Memorandum Opinion and Order in MM Docket No. 01–109 which extended the five year build out requirement set forth in Section 21.930 by two years. Thus, the first filings will not occur until FY 2003. The certification of completion of construction (FCC 304-A) required by Section 21.930(a)(3) has separate OMB approval under control number 3060–0664.) The data is used by FCC staff to determine if the BTA holder has met its construction requirements and to ensure that service is promptly delivered to the public. The Commission will issue a declaration that the holder has met the construction requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–17398 Filed 7–10–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2493]

Petitions for Reconsideration Clarification of Action in Rulemaking Proceeding

July 2, 2001.

Petitions for Reconsideration Clarification have been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by July 26, 2001. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: In the Matter of 2000 Biennial Regulatory Review—Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers (CC Docket No. 00–257).

Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers (CC Docket No. 94–129).

Number of Petitions Filed: 4.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–17256 Filed 7–10–01; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2494]

Petitions for Reconsideration of Action in Rulemaking Proceeding

July 5, 2001.

Petitions for Reconsideration have been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by July 26, 2001. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of FM Table of Allotments (MM Docket No. 98–159).

Number of Petitions Filed: 1.

Subject: Amendment of FM Table of Allotments (MM Docket No. 01–33).

Number of Petitions Filed: 1.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–17257 Filed 7–10–01; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 25, 2001.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Mark George Mulloy, Humble, Texas, and Othello Oscar Hare, Jr., Houston, Teas; to acquire shares and voting shares of Crosby Bancshares, Inc., Crosby, Texas, and thereby indirectly acquire voting shares of Crosby State Bank, Crosby, Texas.

Board of Governors of the Federal Reserve System, July 5, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–17265 Filed 7–10–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the

nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 3, 2001.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Douglas County Bancshares, Inc., Alexandria, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Neighborhood National Bank, Alexandria, Minnesota.

Board of Governors of the Federal Reserve System, July 5, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–17263 Filed 7–10–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 01-15731) published on page 33543 of the issue for Friday, June 22, 2001.

Under the Federal Reserve Bank of Minneapolis heading, the entry for First Western Bancorp., Inc., Huron, South Dakota, is revised to read as follows:

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

*1. First Western Bancorp, Inc.,*Huron, South Dakota; to acquire 74.8 percent of the voting shares American Bank Shares, Inc., Rapid City, South Dakota, and thereby indirectly acquire American State Bank of Rapid City, Rapid City, South Dakota.

Comments on this application must be received by July 19, 2001.

Board of Governors of the Federal Reserve System, July 5, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–17264 Filed 7–10–01; 8:45 am]

BILLING CODE 6210–01–S

GENERAL ACCOUNTING OFFICE

Commercial Activities Panel Hearings

AGENCY: General Accounting Office.

ACTION: Notice of public hearings.

SUMMARY: Section 832 of the National Defense Authorization Act for Fiscal Year 2001 requires the Comptroller General of the United States to convene a panel of experts to study the transfer of commercial activities currently performed by government employees to federal contractors, a procedure commonly known as ''contracting out'' or ''outsourcing.'' This notice announces two public hearings to be held by the Commercial Activities Panel (''the Panel'').

DATES: The Commercial Activities Panel will hold a public hearing in Indianapolis, Indiana, on August 8, 2001, beginning at 8:30 a.m. in the University Place Conference Center and Hotel at Indiana University-Purdue University Indianapolis. Another hearing will be held on August 15 beginning at 8:30 a.m. in the Fiesta Ballroom of the Lackland Gateway Club at Lackland Air Force Base in San Antonio, Texas. Individuals or groups wishing to attend or participate in either of the hearings should notify the Panel and submit written summaries of their statements by July 25 for the Indianapolis hearing and by August 1 for the San Antonio hearing.

ADDRESSES: Submit requests to attend or participate in the hearings, written summaries of oral statements, and any other relevant materials via E-mail to *A76panel@gao.gov.*

FOR FURTHER INFORMATION CONTACT: Debra McKinney at (202) 512–8517 or *McKinneyD@gao.gov* regarding the Indianapolis, Indiana, hearing; and Marilyn Wasleski at (202) 512–8436 or *WasleskiM@gao.gov* regarding the San Antonio, Texas, hearing.

SUPPLEMENTARY INFORMATION: Section 832 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Public Law 106–398, Oct. 30, 2000, directs the Comptroller General of the United States to convene a panel of experts to study the policies and procedures governing the transfer of commercial activities for the federal government from government personnel to a federal contractor. The Panel's study is to include a review of: (1) Procedures for determining whether functions should continue to be performed by government personnel; (2) procedures for comparing the costs of performing functions by government personnel with the costs of performing those functions by federal contractors; (3) implementation by the Department of Defense of the Federal Activities Inventory Reform (FAIR) Act of 1998 (Pub. L. 105–270, 112 Stat. 2382, 31 U.S.C. 501 note); and (4) procedures of the Department of Defense for public-private competitions under Office of Management and Budget (OMB) Circular A–76. Formation of the Panel was announced in the **Federal Register** on April 17, 2001 (66 FR 19786). By May 1, 2002, the Comptroller General must submit to Congress a report of the Panel on the results of the study, including recommended changes with regard to implementing policies and enactment of legislation.

During the course of its work, the Panel will hold several public hearings. Interested parties are invited to attend these hearings to provide their perspectives on sourcing issues. On June 11, 2001, the GAO held its first public hearing, which focused on the principles and policies underlying outsourcing. The second public hearing will be held on August 8, 2001, beginning at 8:30 a.m. in the University Place Conference Center and Hotel on the Indiana University-Purdue University Indianapolis Campus, 850 West Michigan Street, Indianapolis, Indiana. The focus of this hearing will be on alternatives to the current outsourcing processes. The third hearing will be held on August 15 beginning at 8:30 a.m. in the Fiesta Ballroom of the Lackland Gateway Club, Building 2490, on Kenly Avenue at Lackland Air Force Base, San Antonio, Texas. This hearing will address current processes, such as OMB Circular A–76, public-private competitions, and the FAIR Act.

Any party who would like to attend either of the August hearings or make a presentation should contact the following E-mail address: *A76panel@gao.gov*. Those who wish to make presentations at either hearing should submit written summaries of their oral statements via the same E-mail address. These summaries must be received in our Office by July 25, 2001, for the Indianapolis hearing and by August 1, 2001, for the San Antonio hearing. The Panel will attempt to accommodate all interested parties who respond before these deadlines. Presenters must be prepared to limit their oral statements to 3 to 5 minutes. Interested parties who would like to make electronic presentations during the hearings must indicate their desire to do so by the July 25 deadline for the Indianapolis hearing and by the August 1 deadline for the San Antonio hearing. If time permits, individuals with no

prepared statements will be given the opportunity to speak, but the Panel may not be able to accommodate all such requests. Any individual who would like to attend the hearing at Lackland Air Force Base must present at any of its gates on the hearing date: (1) A picture identification (such as a driver's license), and (2) proof of automobile insurance, if driving a vehicle. The gate located closest to the Lackland Gateway Club is the Luke East Gate on Military Drive, which intersects U.S. Highway 90. More detailed guidance on hearing procedures will be provided to presenters by E-mail in advance of the hearings. Any interested party may submit full statements for inclusion in the hearing records by 5:30 p.m. on August 22. The hearings will be transcribed.

Further information, including hearing transcripts and copies of statements by all presenters, will be available on the GAO website, *www.gao.gov*, by clicking on ''Commercial Activities Panel.''

Jack L. Brock, Jr.,

Managing Director, Acquisition and Sourcing Management, General Accounting Office.

[FR Doc. 01–17270 Filed 7–10–01; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0267]

Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Device Labeling Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on certain general medical device labeling provisions.

DATES: Submit written or electronic comments on the collection of information by September 10, 2001.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Device Labeling—21 CFR Parts 800, 801, and 809

Section 502 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 352), among other things, establishes requirements that the label or labeling of a medical device must meet so that it is not misbranded and subject to regulatory action. Certain of the provisions of section 502 of the act require that manufacturers, importers, and distributors of medical devices disclose information about themselves or their devices on the labels or labeling of the devices. Section 502(b) of the act requires that, if the device is in a package, the label must contain the name and place of business of the manufacturer, packer, or distributor and an accurate statement of the quantity of the contents. Section 502(f) of the act provides that the labeling of a device must contain adequate directions for use. FDA may grant an exemption from the adequate directions for use requirement, if FDA determines that adequate directions for use are not necessary for the protection of the public health.

FDA regulations in parts 800, 801, and 809 (21 CFR parts 800, 801, and 809) require manufacturers, importers, and distributors of medical devices to disclose to health professionals and consumers specific information about themselves or their devices on the label or labeling of their devices. FDA issued these regulations under the authority of sections 201, 301, 502, and 701 of the act (21 U.S.C. 321, 331, 352, and 371). Most of the regulations in parts 800, 801, and 809 derive from the requirements of section 502 of the act, which provides, in part, that a device shall be misbranded if, among other things, its label or labeling fails to bear certain required information concerning the device, is false or misleading in any particular, or fails to contain adequate directions for use.

Sections 800.10(a)(3) and 800.12(c) require that the label of contact lens cleaning solutions contain a prominent statement alerting consumers to the tamper-resistant feature required by § 800.12.

Section 800.10(b)(2) requires that the labeling of liquid ophthalmic preparations packed in multiple-dose containers include information as to duration of use and necessary warnings to afford adequate protection from contamination during use.

Section 801.1 requires that the label of a device in package form contain the name and place of business of the manufacturer, packer, or distributor.

Section 801.5 requires that the labeling of devices include directions under which the layman can use a device safely and for the purposes for which it is intended. Section 801.4 defines intended use. Where necessary, the labeling should include: (1) Statements of all conditions, purposes, or uses for which the device is intended, unless the device is a prescription device subject to the requirements of

§ 801.109; (2) quantity of dose; (3) frequency of administration or application; (4) duration of administration or application; (5) time of administration, e.g., in relation to meals, onset of symptoms, etc.; (6) route of method or application; and (7) preparation for use.

Section 801.61 requires that the principal display panel of an over-the-counter device in package form must include a statement of the identity of the device. The statement of the identity of the device must include the common name of the device followed by an accurate statement of the principal intended actions of the device.

Section 801.62 requires that the label of an over-the-counter device in package form must include a declaration of the net quantity of contents. The label must express the net quantity in terms of weight, measure, numerical count, or a combination of numerical count and weight, measure, or size.

Section 801.109 establishes labeling requirements for prescription devices. A prescription device is defined as a device which, because of its potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use is not safe except under the supervision of a practitioner licensed by law to use the device and, therefore, for which adequate directions for use by a lay person cannot be developed.

Labeling must include information for use, including indications, effects, routes, methods, and frequency and duration of administration, and any relevant hazards, contraindications, side effects, and precautions under which practitioners licensed by law to administer the device can use the device safely and for the purpose which it is intended, including all purposes for which it is advertised or represented.

Section 801.110 establishes a labeling requirement for a prescription device delivered to the ultimate purchaser or user upon the prescription of a licensed practitioner. The device must be accompanied by labeling bearing the name and address of the licensed practitioner and the directions for use and cautionary statements, if any, contained in the order.

Section 801.405 establishes labeling requirements for articles intended for lay use in repairing and refitting dentures.

Section 809.10(a) and (b) provide labeling requirements for in vitro diagnostic products including the label and a package insert.

These estimates are based on FDA's registration and listing database for medical device establishments, agency communications with industry, and FDA's knowledge of and experience with device labeling. We have not estimated a burden for those requirements where the information to be disclosed is information that has been supplied by FDA. Also, we have not estimated a burden for that information that is disclosed to third parties as a usual and customary part of a medical device manufacturer, distributor, or importer's normal business activities. We do not include any burden for time that is spent designing labels to improve the format or presentation.

From its registration and listing databases, FDA has determined that there are approximately 20,000 registered device establishments. About 2,000 of these are distributing over-the-counter devices. About 18,000 are distributing prescription devices. About 1,700 establishments are distributing in vitro diagnostic products.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
800.10(a)(3) and 800.12(c)	4	10	40	1	40
800.10(b)(2)	4	10	40	40	1,600
801.1	20,000	3.5	70,000	0.1	7,000
801.5	2,000	3.5	7,000	22.35	156,450
801.61	1,000	3.5	3,500	1	3,500
801.62	200	5	1,000	1	1,000
801.109	18,000	3.5	63,000	17.77	1,119,510
801.110	10,000	50	500,000	0.25	125,000
801.405(b)	40	1	40	4	160
801.420(c)	40	5	200	40	8,000
801.421(b)	10,000	160	1,600,000	0.30	480,000
801.421(c)	10,000	5	49,500	0.17	8,500
801.435	45	1	45	96	4,320
809.10(a) and (b)	1,700	6	10,200	80	816,000
809.10(d)	300	2	600	40	24,000
809.10(e)	300	25	7,500	1	7,500
809.10(f)	20	1	20	100	2,000
809.30(d)	300	25	7,500	1	7,500
Total Hours					2,772,080

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
801.410(f)	30	769,000	23,070,000	0.0008	19,225
801.421(d)	10,000	160	1,600,000	0.25	400,000

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]—Continued

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
Total Hours					419,225

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 29, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–17406 Filed 7–10–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1534]

Agency Information Collection Activities; Announcement of OMB Approval; Year 2001 Updates of a National Survey of Prescription Drug Information Provided to Patients

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Year 2001 Updates of a National Survey of Prescription Drug Information Provided to Patients'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 6, 2000 (65 FR 59849), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0279. The approval expires on June 30, 2004. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: July 3, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–17253 Filed 7–10–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0263]

Heinold Feeds, Inc.; Withdrawal of Approval of New Animal Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of two new animal drug applications (NADAs) listed below. In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the animal drug regulations to remove portions reflecting approval of the NADAs because the products are no longer manufactured or marketed.

DATES: Withdrawal of approval is effective July 23, 2001.

FOR FURTHER INFORMATION CONTACT: Pamela K. Esposito, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5593.

SUPPLEMENTARY INFORMATION: Heinold Feeds, Inc., P.O. Box 377, Kouts, IN 46347, has requested that FDA withdraw approval of NADA 95–628 for Tylosin® Antibiotic Premix and NADA 127–506 for Tylan® Sulfa-G Premixes because the products are no longer manufactured or marketed.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADAs 95–628 and 127–506, and all supplements and amendments thereto, is hereby withdrawn, effective July 23, 2001.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the animal drug regulations to reflect the withdrawal of approval of these NADAs.

Dated: July 2, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–17408 Filed 7–10–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1341]

''Guidance for Industry: CBER Pilot Licensing Program for Immunization of Source Plasma Donors Using Immunogen Red Blood Cells Obtained from an Outside Supplier;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled ''Guidance for Industry: CBER Pilot Licensing Program for Immunization of Source Plasma Donors Using Immunogen Red Blood Cells Obtained from an Outside Supplier'' dated July 2001. The guidance document is intended to assist manufacturers of Source Plasma who wish to participate in the Center for Biologics Evaluation and Research (CBER) pilot program for Red Blood Cell immunization. The pilot program would allow a licensed manufacturer of Source Plasma to self-certify conformance to specific criteria and recommendations described by CBER in the guidance document in lieu of submission of a detailed biologics license application supplement filing. The guidance document announced in this notice finalizes the draft guidance document entitled ''Guidance for Industry: CBER Pilot Licensing Program for Immunization of Source Plasma Donors Using Immunogen Red Blood Cells Obtained from an Outside Supplier'' dated June 2000.

DATES: Submit written comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the

Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document. Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Nathaniel L. Geary, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Guidance for Industry: CBER Pilot Licensing Program for Immunization of Source Plasma Donors Using Immunogen Red Blood Cells Obtained from an Outside Supplier'' dated July 2001. The guidance document is intended to assist those applicants who qualify and wish to participate in CBER's Red Blood Cells Immunization Program (RBCIP) pilot. A manufacturer is qualified if it: (1) Holds an unsuspended and unrevoked biologics license for Source Plasma, (2) seeks to supplement the license to include an RBCIP, (3) plans to use already thawed and deglycerolized Immunogen Red Blood Cells (IRBC) from an outside supplier, and (4) has identified an outside supplier of IRBC who holds an unsuspended and unrevoked biologics license for Source Plasma that already includes CBER's authorization for an RBCIP.

In the **Federal Register** of July 18, 2000 (65 FR 44537), FDA announced the availability of a draft guidance document entitled ''Guidance for Industry: CBER Pilot Licensing Program for Immunization of Source Plasma Donors Using Immunogen Red Blood Cells Obtained from an Outside Supplier'' dated June 2000. FDA received no comments from the public on this draft guidance document. The guidance document announced in this notice finalizes the draft guidance document with minor editorial changes.

The guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). This guidance document represents the agency's current thinking on a pilot program specific to the immunization of Source Plasma donors using IRBC obtained from an outside supplier, either from an outside manufacturer, under a contractural agreement, or from an outside facility under the same managerial control as the applicant facility. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

II. Comments

Interested persons may, at any time, submit written comments to the Dockets Management Branch (address above) regarding this guidance document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cber/guidelines.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: June 27, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–17254 Filed 7–10–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–2213]

Guidance for Industry: Revised Recommendations Regarding Invalidation of Test Results of Licensed and 510(k) Cleared Bloodborne Pathogen Assays Used to Test Donors; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document entitled ''Guidance for Industry: Revised Recommendations Regarding Invalidation of Test Results of Licensed and 510(k) Cleared Bloodborne Pathogen Assays Used to Test Donors'' dated July 2001. The guidance document provides guidance to blood establishments on when to invalidate donor test results based on control reagents required by the Clinical Laboratory Improvement Act of 1988 (CLIA). The implementation of additional quality control procedures that involve the use of external control reagents should enhance overall testing accuracy and blood safety. The guidance document announced in this notice finalizes the draft guidance document entitled ''Draft Guidance for Industry: Revised Recommendations for the Invalidation of Test Results When Using Licensed and 510(k) Cleared Bloodborne Pathogen Assays to Test Donors'' dated September 1999.

DATES: Submit written comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''Guidance for Industry: Revised Recommendations Regarding Invalidation of Test Results of Licensed and 510(k) Cleared Bloodborne Pathogen Assays Used to Test Donors'' to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Astrid L. Szeto, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance document entitled ''Guidance for Industry: Revised

Recommendations Regarding Invalidation of Test Results of Licensed and 510(k) Cleared Bloodborne Pathogen Assays Used to Test Donors'' dated July 2001. The guidance document provides recommendations for blood establishments in integrating current CLIA requirements for when to invalidate donor test results based on CLIA required control reagents. The guidance document announced in this notice finalizes the draft guidance document entitled ''Guidance for Industry: Revised Recommendations for the Invalidation of Test Results When Using Licensed and 510(k) Cleared Bloodborne Pathogen Assays to Test Donors'' announced in the **Federal Register** of September 1, 1999 (64 FR 47847). The guidance document also supersedes the January 3, 1994 guidance document entitled ''Recommendations for the Invalidation of Test Results When Using Licensed Viral Marker Assays to Screen Donors.''

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). This guidance document represents the agency's current thinking with regard to the invalidation of test results based on the CLIA required control reagents. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations. As with other guidance documents, FDA does not intend this document to be all-inclusive and cautions that not all information may be applicable to all situations. The document is intended to provide information and does not set forth requirements.

II. Comments

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments regarding this guidance document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of this guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the guidance document at http://www.fda.gov/cber/guidelines.htm or http://www.fda.gov/ohrms/dockets/default.htm

Dated: June 27, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–17255 Filed 7–10–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Practitioner Data Bank; Change in User Fee

The Health Resources and Services Administration (HRSA), Department of Health and Human Services (DHHS), is announcing a one dollar increase in the fee charged to entities authorized to request information from the National Practitioner Data Bank (NPDB) for all queries. The new fee will be $5.00 and there, will be no change to the $10.00 self-query fee.

The current fee structure ($4.00 per name) was announced in the **Federal Register** on January 29, 1998 (63 FR 4460). All entity queries are submitted and query responses received through the NPDB's Integrated Query and Reporting Service (IQRS) and paid via an electronic funds transfer or credit card.

The NPDB is authorized by the Health Care Quality Improvement Act of 1986 (the Act), Title IV of Public Law 99–660, as amended (42 U.S.C. 11101 *et seq.*). Section 427(b)(4) of the Act authorizes the establishment of fees for the costs of processing requests for disclosure and of providing such information.

Final regulations at 45 CFR part 60 set forth the criteria and procedures for information to be reported to and disclosed by the NPDB. Section 60.3 of these regulations defines the terms used in this announcement.

In determining any changes in the amount of the user fee, the Department uses the criteria set forth in § 60.12 (b) of the regulations, as well as allowable costs pursuant to Title II of the Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill for Fiscal Year 2001, P.L. 106–554, enacted Dec. 21, 2000. This Act requires that the Department recover the full costs of operating the Data Bank through user fees. Paragraph (b) of the regulations states:

''The amount of each fee will be determined based on the following criteria:

(1) Use of electronic data processing equipment to obtain information—the actual cost for the service, including computer search time, runs, printouts, and time of computer programmers and operators, or other employees,

(2) Photocopying or other forms of reproduction, such as magnetic tapes—actual cost of the operator's time, plus the cost of the machine time and the materials used,

(3) Postage—actual cost, and

(4) Sending information by special methods requested by the applicant, such as express mail or electronic transfer the actual cost of the special service.''

Based on analysis of the comparative costs of the various methods for filing and paying for queries, the Department is raising all the entity query fees by $1.00 per name. The practitioner self-query fee remains at $10. This price increase is necessitated by increased technical labor costs, equipment upgrades, and improvements to the NPDB's computer system. Since the last fee increase, the system has been migrated from QPRAC, a dial-up client server system, to the web-based IQRS. The IQRS provides a secure mechanism for faster, more convenient, reporting and querying.

This change is effective October 1, 2001.

When a query is for information on one or more physicians, dentists, or other health care practitioners, the appropriate fee will be $5.00 multiplied by the number of individuals about whom information is being requested. For examples, see the table below.

The Department will continue to review the user fee periodically, and will revise it as necessary. Any changes in the fee and their effective date will be announced in the **Federal Register**.

Query method	Fee per name in query	Examples
Entity query (Via Internet with electronic payment).	$5.00	10 names in query. 10x$5=$50.00.
Practitioner self-query	10.00	One self-query=$10.00.

Dated: July 6, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01–17409 Filed 7–10–01; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Validation of Questionnaires Used for Occupational Exposure Assessment in Case-Control Studies: Occupational History Questionnaire With Foundry Worker and Textile Industry Job Modules

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on January 11, 2001, page 2433, Volume 66, No. 8, and allowed 60 days for public comment. No public comments were received. NCI fulfilled only one request for a copy of the study protocol and questionnaire.

The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, and information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Validation of Questionnaires Used for Occupational Exposure Assessment in Case-Control Studies: Occupational History Questionnaire with Foundry Worker and Textile Industry Job Modules. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* This study will investigate the validity and reliability of exposure assessments based on occupational history questionnaires supplemented with industry specific job modules as compared to exposure assessments made based on actual measurement taken in the workplace environments. The results will be used to assess the potential magnitude of exposure misclassification in case-control studies using these types of exposure assessment methods. *Frequency of Response:* One time study. *Affected Public:* Large and small factories in Shanghai, China. *Type of Respondents:* Factory workers. The annual burden is as follows: *Estimated Number of Respondents:* 120; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours per Respondent:* 0.5 hours; and *Estimated Total Annual Burden Hours Requested:* 60. There are no annualized costs to respondents. There are no Capital Costs to report and no Operating or Maintenance costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Joseph Coble, Project Officer, National Cancer Institute, 6120 Executive Blvd, EPS 8110, Rockville, MD, 20892–7240, or call non-toll-free number (301) 435–4702, email your request to *jcoble@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received on or before August 10, 2001.

Dated: July 2, 2001.

Reesa Nichols,

NCI Project Clearance Liaison.

[FR Doc. 01–17281 Filed 7–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing: Natural Killer Cells in Xenotransplantation and Establishment of a Target Cell Line Producing Porcine Endogenous Retrovirus

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The invention described below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development.

ADDRESSES: Licensing information for the technology described below may be obtained by contacting John Rambosek, Ph.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7056 ext. 270; fax: 301/402–0220; e-mail: rambosej@od.nih.gov.

SUPPLEMENTARY INFORMATION: The worldwide shortage of human organs and tissues for allotransplantation combined with recent advances in transplantation immunobiology, surgery and medicine, have sparked renewed interest in the clinical use of xenotransplantation, the use of living nonhuman animal materials for the treatment of human diseases. In addition to whole organ transplants, cellular implants and ex vivo use of living material from animal sources have been suggested for treatment of disease in human patients. For a variety of reasons, the pig is currently the source animal of choice for xenotransplantation in humans, but there are two major obstacles to successful pig to human xenotransplantation. These are the immune response, responsible for rejecting xenotransplants, and the risk of transmission of infection including porcine endogenous retrovirus, which, at least at the present time, cannot be removed from the xenotransplantation porcine source. Natural killer (NK) cells play an important role in the delayed rejection of xenotransplants, and have been shown to infiltrate rejecting grafts.

Current efforts in the Laboratory of Immunology and Virology, Division of Cellular and Gene Therapies, Center for Biologics Evaluation and Research,

FDA, are aimed at understanding the human NK cell response to porcine target cells. Findings suggest that NK cells have the capacity to participate in early stages (hyperacute or acute rejection) of xenograft rejection as well as later stages (delayed rejection). In addition, human NK cell activity against porcine cells as measured by lysis and proliferation, is regulated by certain cytokines such as interleukin (IL)–2, IL–12, and IL–15, but not by IL–18 and IL–8. Moreover, the human NK cell response to porcine endothelial cells is regulated by the combination of redox status and nitric oxide (NO) availability, such that under conditions of oxidative stress, lysis of porcine endothelial cells is inhibited by NO through a nuclear factor-kappa B-dependent pathway. Finally, in the process of carrying out these investigations, a new porcine cell line, MS–PBMC–J2 (J2), was established from the peripheral blood of a NIH miniswine. J2 constitutively produces infectious porcine endogenous retrovirus. J2 expresses porcine CD2, CD8, CD16, CD31, and MHC class I and class II but does not express CD3 or CD4. Phenotypically it resembles NK cells, but does not mediate NK-like activity. Further studies into the regulation of human NK cell anti-porcine cytotoxicity are underway, and other experiments using J2 as a model of PERV production are planned.

The cell line (our reference no. E–046–01/0) is available for licensing under a Biological Materials License Agreement. The scientists may also be interested in collaborative arrangements for the further research and development of this technology.

Dated: June 29, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–17289 Filed 7–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group Subcommittee E—Cancer Epidemiology, Prevention & Control.

Date: July 31–August 1, 2001.

Time: 7 am to 2 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, NW. Washington, DC 20007.

Contact Person: Mary C. Fletcher, PHD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, RM 8115, Bethesda, MD 20852, 301/496–7413.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 29, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–17284 Filed 7–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group Subcommittee D—Clinical Studies.

Date: July 31–August 1, 2001.

Time: 7 pm to 6 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

Contact Person: William D. Merritt, PhD, Scientific Review Administrator, Grants Review Branch, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, room 8129, MSC 8328, Bethesda, MD 20892–8328, 301–496–9767.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 29, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–17285 Filed 7–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group Subcommittee C—Basic & Preclinical.

Date: July 31–August 2, 2001.

Time: 4 pm to 12 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Michael B. Small, PhD, Scientific Review Administrator, Grants

Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8040, Bethesda, MD 20892, 301/402–0996.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 29, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–17286 Filed 7–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel ''Development and Manufacture of Pharmaceutical Products for Addiction Treatment''.

Date: July 10, 2001.

Time: 10 am to 12 pm.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Eric Zatman, Contract Review Specialist, office of Extramural Affairs, National institute on Drug Abuse, National Institutes of health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1438.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, national Institutes of Health, HHS)

Dated: July 5, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–17277 Filed 7–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: July 17–18, 2001.

Time: 6 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Arthur D. Schaerdel, DVM, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: July 19, 2001.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD, Health Scientific Administrator, Office of Scientific Review, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: July 30–31, 2001.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Novato Oaks Inn, 215 Alameda Del Prado, Novato, CA 94949.

Contact Person: Ramesh Vemuri, PhD, Office of Scientific Review, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel Prevention and Treatment Intervention in middle-aged and older population.

Date: August 9–10, 2001.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, 100 Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: William A. Kachadorian, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel-Ad Hoc Site Visit Review Committee.

Date: August 14–15, 2001.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Madison Hotel, 706 John Nolen Drive, Madison, WI 53713.

Contact Person: Mary Ann Guadagno, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: July 3, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–17278 Filed 7–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and

the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel ZDK1 GRB–C(02).

Date: July 23, 2001.

Time: 7 pm to 11 pm.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

Contact Person: Carolyn Miles, PhD, Scientific Research Administrator, Review Branch, Dea, NIDDK, Room 755, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–7791.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel ZDK1 GRB–C(01).

Date: July 24, 2001.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

Contact Person: Carolyn Miles, PhD, Scientific Research Administrator, Review Branch, Dea, NIDDK, Room 755, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–7791.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel ZDK1 GRB–D (01)S.

Date: August 1–2, 2001.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

Contact Person: Neal A. Musto, PhD, Scientific Review Administrator, Dea, NIDDK, Room 750, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7798, *muston@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 3, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–17279 Filed 7–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals association with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Review of Clinical Investigator Development Awards (K08s).

Date: August 6, 2001.

Time: 1:30 pm to 2:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIEHS, 79 T. W. Alexander Drive, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contract Person: Linda K. Bass, PHD, Scientific Review Administrator, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Review of Clinical Investigator Development Awards (K08s).

Date: August 6, 2001.

Time: 2:30 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIEHS, 79 T. W. Alexander Drive, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Linda K. Bass, PHD, Scientific Review Administrator, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS).

Dated: July 3, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–17280 Filed 7–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: July 19, 2001.

Time: 10:00 AM to 11:30 AM.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd., Executive Plaza South, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Melissa Stick, PhD, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: June 29, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–17282 Filed 7–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: August 6–7, 2001.

Time: 8 am to 12 pm.

Agenda: To review and evaluate contract proposals.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Hameed Khan, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: June 29, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–17283 Filed 7–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to seciton 10(d) of the Federal Advisory Committee Act, as amended (4 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: July 12, 2001.

Time: 10 am to 10:30 am.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Roberta Binder, PhD, Scientific Review Administrator, Division of Extramural Activities, NIAID, 6700B Rockledge Drive, Rm 2155, Bethesda, MD 20892, 301–496–7966, rb169n@nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 29, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–17287 Filed 7–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel.

Date: July 5, 2001.

Time: 2 pm to 3 pm.

Agenda: To review and evaluate contract proposals.

Place: National Library of Medicine, Building 38A, HPCC Conference Room B1N30Q, 8600 Rockville Pike, Bethesda, MD 20894, (Telephone Conference Call).

Contact Person: Merlyn M. Rodrigues, Medical Officer/SRA, National Library of Medicine, Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20894.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: June 29, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–17276 Filed 7–10–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences (NIEHS); National Toxicology Program (NTP); Peer Review Panel for the Up-and-Down Procedure (UDP): Notice of Meeting

Summary

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a public teleconference meeting of the Up-and-Down Procedure (UDP) independent scientific peer review panel (Panel). The teleconference is scheduled for Tuesday, August 21, 2001, from 10:00 a.m.–12:00 p.m. EDT. The agenda for this meeting will focus on a discussion of the following: (1) The revised draft Up-and-Down Procedure (UDP), modified in response to recommendations from the July 2000 Panel meeting; (2) a proposed procedure for calculating the confidence interval for the estimated LD50; and (3) a software program to aid in dose selection, test-stopping decisions, calculation of an estimated LD50, and calculation of a confidence interval around the LD50.

Following the Panel meeting, a final report of the Panel's findings and recommendations will be published and made available to the public through the NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM). In accordance with Public Law 106–545, the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) will develop and forward test recommendations on the UDP to Federal agencies for their consideration. The ICCVAM recommendations will also be made available to the public through the NICEATM.

Background, including the availability of review materials, can be found in previous **Federal Register** notices (see FR Volume 66, Number 121, pages 33550–33552; FR Volume 65, Number 34, pages 8385–8386; and FR Volume 65, Number 106, pages 35109–35110). The **Federal Register** notice (Volume 66, Number 121) invites written public comments on the materials being discussed at the Panel meeting. Comments received by the August 6, 2001 deadline will be made available to the Panel prior to the August 21 teleconference.

Meeting information

Panel members will participate in the meeting via teleconference. The teleconference will originate from Room 3162, 3rd Floor, NIEHS, 79 T.W. Alexander Drive, Bldg. 4401, Research Triangle Park, NC and NICEATM staff will be on hand to coordinate the teleconference. The public is invited to attend with attendance limited only by the space available in Room 3162. To attend this meeting, please contact Ms. Loretta Frye, NICEATM, NIEHS, 79 Alexander Drive, Bldg. 4401, P.O. Box 12233, EC–17, Research Triangle Park, NC 27709; telephone (919) 541–3138; fax (919) 541–0947; or email *frye@niehs.nih.gov*. Arrangements to attend the meeting, including the need for special accommodation, (e.g., wheelchair access), should be made with the NIEHS/NICEATM staff by 12:00 noon EDT on Tuesday, August 14, 2001.

Request for Public Comment

While written public comments are requested and preferred, there will be an opportunity for oral public comments. For this teleconference meeting, oral comments by individual speakers will usually be limited to no more than three minutes per speaker. Persons registering to make oral comments are asked to provide their name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization. To facilitate planning for the meeting, persons interested in providing formal oral comments are asked to notify Ms. Loretta Frye (contact information provided above) in writing (email, fax, or mail) no later than 12:00 noon EDT on Tuesday, August 14, 2001. Persons registering to make oral comments are asked, if possible, to provide a copy of their statement to Ms. Loretta Frye by August 14, to enable review by the Panel and NICEATM staff prior to the meeting.

Dated: July 3, 2001.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 01–17288 Filed 7–10–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Applicant: Dale Lee Nunez, Portland, OR, PRT–044912

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purposes of enhancement of the survival of the species.

Applicant: Edward W. Berkeley, Portland, OR, PRT–044913

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purposes of enhancement of the survival of the species.

Applicant: Bowmanville Zoo, Ontario, Canada, PRT–044983

The applicant requests a permit to import and re-export a captive-born jaguar (*Panthera onca*) and progeny of the animals currently held by the applicant and any animals acquired in the United States to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three-year period.

Applicant: Dr. M. F. Marcone, Department of Food Science, University of Guelph, Ontario, Canada, PRT–044611

The applicant requests a permit to import and re-export specimens of the endangered plants, *Achyranthes splendens* var. *rotundata* and *Nototrichium humile,* to and from various research facilities in the United States for the purposes of scientific research. This notification covers the activities conducted by the applicant over a five-year period.

Marine Mammals and Endangered Species

The public is invited to comment on the following application for a permit to conduct certain activities with endangered marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*), and the regulations governing marine mammals (50 CFR 18) and endangered species (50 CFR 17).

Applicant: Harbor Branch Oceanographic Institution, Fort Pierce, FL PRT–038605.

Permit Type: Take for Scientific Research.

Name and Number of Animals: West Indian Manatee, *Trichechus manatus,* 8.

Summary of Activity to be Authorized: The applicant requests a permit to transfer 6 captive held, 2 captive born, as well as 1 Pre-Act, specimens, from Homosassa Springs Wildlife Park, Homosassa, FL, to their facility at Ft. Pierce, Florida, for the purpose of scientific research.

Source of Marine Mammals: Captive held and captive born.

Period of Activity: Up to 5 years if issued.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was

submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: Jack A. Wilkinson, Kalispell, MT, PRT–044833

The applicant requests a permit to import a polar bear (Ursus maritimus) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal use.

Written data, comments, or requests for copies of the above complete applications or requests for a public hearing on these applications should be sent to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281. These requests must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

The U.S. Fish and Wildlife has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: June 29, 2001.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–17363 Filed 7–10–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On May 7, 2001, a notice was published in the **Federal Register**, Vol. 66, No. 88, Page 23044, that an application had been filed with the Fish and Wildlife Service by Dave Dillard for a permit (PRT–041031) to import one polar bear (*Ursus maritimus*) trophy taken from the Northern Beaufort Sea population, Canada for personal use.

Notice is hereby given that on June 25, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Date: June 29, 2001.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–17364 Filed 7–10–01; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–415 and 731–TA–933–934 (Preliminary)]

Polyethylene Terephthalate Film, Sheet, and Strip From India and Taiwan

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671(a) and 19 U.S.C. 1673b(a)) (the Act), respectively, that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from India of polyethylene terephthalate film, sheet, and strip (PET film), provided for in subheading 3920.62.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of India and by reason of imports from India and Taiwan of PET film that are alleged to be sold in the United States at less than fair value (LTFV).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce of affirmative preliminary determinations in the investigations under sections 703(b) and 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 703(a) and 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On May 17, 2001, a petition was filed with the Commission and Commerce by DuPont Teijin Films, Wilmington, DE, Mitsubishi Polyester Film of America, Greer, SC, and Toray Plastics (America), Inc., North Kensington, RI, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of PET film from India and Taiwan that are alleged to be sold in the United States at LTFV and that are alleged to be subsidized by the Government of India. Accordingly, effective May 17, 2001, the Commission instituted countervailing duty investigation 701–TA–415 (Preliminary) and antidumping duty investigations Nos. 731–TA–933–934 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 29, 2001 (66 FR 29174). The conference was held in Washington, DC, on June 7, 2001, and all persons who requested the

opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on July 2, 2001. The views of the Commission are contained in USITC Publication 3437 (July 2001), entitled Polyethylene Terephthalate Film from India and Taiwan: Investigations Nos. 701–TA–415 and 731–TA–933–934 (Preliminary).

Issued: July 6, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–17345 Filed 7–10–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of Information Collection under Review: Application to Register Permanent Residence or Adjust Status, and Supplement A to Form I–485.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 30, 2000 at 66 FR 17440, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until August 10, 2001. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: DOJ Desk Officer, Department of Justice Desk Officer, Room 10235, Washington, DC 20530. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Application to Register Permanent Residence or Adjust Status, and Supplement A to Form I–485.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Forms I–485 and I–485 Supplement A. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This collection allows an applicant to determine whether he or she must file under section 245 of the Immigration and Nationality Act, and it allows the Service to collect information needed for reports to be made to different government committees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* I–485 Adult respondents is 314,793 at 5;25 hours per response; I–485 Children respondents is 247,289 at 4.5 hours per response; and I–485 Supplement A respondents is 73,418 at 13 minutes (.216) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection(s):* 2,781,321.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 5, 2001.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–17275 Filed 7–10–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 28, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: Equal Employment Opportunity in Apprenticeship and Training—29 CFR Part 30.

OMB Number: 1205–0224.

Affected Public: Business or other for-profit; not-for-profit institutions; individuals or households; Federal Government; and State, Local, or Tribal Government.

Section No.	Respondents	Frequency	Responses	Average time per response	Estimated burden hours
30.3	1,497	1-time/sponsor	1,497	.5 hours	749
30.4	112	1-time/sponsor	112	1 hours	112
30.5	5,889	1-time/applicant	5,889	.5 hours	2,945
30.6	50	1-time/sponsor	50	5 hours	250
30.8	37,425	1-time/applicant	37,425	.02 hours	624
30.8	30	1-time/program	18,713	.08 hours	1,559
ETA 9039	50	1-time/applicant	50	.5 hours	25
Total	*37,505		63,736		6,264

*Number of respondents equal 37,425 Sponsors, 30 State Agencies, and 40 Applicants/Apprentices.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Title 29 CFR Part 30 sets forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor and recognized State Apprenticeship Agencies.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: Petition for NAFTA Transitional Adjustment Assistance.

OMB Number: 1205–0342.

Affected Public: Individuals or households; business or other for-profit; and State, Local, or Tribal Government.

Activity	Number of respondents/ Responses	Frequency	Average time per response	Estimated burden hours
ETA–9042/ETA–9042–1	1,000	On occasion	.25 hours	250
State Reviews	1,000	On occasion	.08 hours	80
Total				330

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The forms ETA–9042 and ETA–9042–1 are used by American workers to submit a petition for adjustment assistance benefits in accordance with the provisions of Subchapter D, the North American Free Trade Agreement Implementation Act, amending Chapter 2 of Title II of the Trade Act of 1974.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: Work Opportunity Tax Credit (WOTC) and Welfare-to-Work (W-t-W) Tax Credit.

OMB Number: 1205–0371.

Affected Public: State, Local, or Tribal Government; business or other for-profit; and Individuals or Households.

Cite/reference	Total respondents	Frequency	Total responses	Average time per response	Estimated burden hours
Form 9057	52	Quarterly	208	8 hours	1,664
Form 9058	52	Quarterly	208	8 hours	1,664
Form 9059	52	Quarterly	208	8 hours	1,664
Form 9061	200	On occasion	200	8 hours	1,600
Form 9062	52	On occasion	150	8 hours	1,200
Form 9063	52	On occasion	1,000	8 hours	8,000
Form 9065	52	Quarterly	208	8 hours	1,664
Recordkeeping	52	Annually	52	997 hours	51,884
Total	252*		2,234		69,300

*Respondents equal 52 states and 200 Employers/Consultants and job seekers.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: This information collection project is used for program planning and evaluation and for oversight and verification activities as mandated by the Revenue Act of 1978, Tax Equity Act and Fiscal Responsibility Act of 1982, Omnibus Budget Reconcilation Act of 1992, Sections 51 and 51A of the Internal Revenue Code of 1986, as amended, Small Business Act of 1996, Taxpayer Relief Act of 1997, and the Ticket to Work and Work Incentives Improvement Act of 1999.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–17399 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB review; comment request

June 29, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail to King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: Stuart Shapiro, OMB Desk OSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Respiratory Protection.

OMB Number: 1218–0099.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Total Burden Hours: 6,468,682.

Number of Respondents: 1,300,000.

Annual Responses: 18,112,941.

Estimated Time Per Respondent: Time per response varies from 8 hours for large facilities to develop a written respiratory program to 5 minutes for employers to maintain employee medical-evaluation records.

Total Annualized capital/startup costs: $0.

Total Annualized costs (operating/maintaining systems or purchasing services): $72,900,680.

Description: The Respiratory Protection Standard's information-collection requirements require employers to: Develop a written respiratory program; conduct employee medical evaluations and provide follow-up medical evaluations to determine the employee's ability to use a respirator; provide the physician or other licensed health care professional with information about the employee's respirator and the conditions under which the employee will use the respirator; and administer fit-tests for employees who will use negative or positive-pressure, tight-fitting facepieces. In addition, employers must ensure that employees store emergency-use respirators in compartments clearly marked as containing emergency-use respirators. For respirators maintained for emergency use, employers must label or tag the respirator with a certificate stating the date of inspection, the name of the individual who made the inspection, the findings of the inspection, required remedial action, and the identity of the respirator.

The Standard also requires employers to ensure that cylinders used to supply breathing air to respirators have a certificate of analysis from the supplier starting that the breathing air meets the requirements for Type 1—Grade D breathing air; such certification assures employers that the purchased breathing air is safe. Compressors used to supply breathing air to respirators must have a tag containing the most recent change date and the signature of the individual authorized by the employer to perform the change. Employers must maintain this tag at the compressor. These tags provide assurance that the compressors are functioning properly.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Ionizing Radiation.

OMB Number: 1218–0103.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Total Burden Hours: 27,642.

Number of Respondents: 12,113.

Annual Responses: 159,043.

Estimated Time Per Respondent: Time per response varies from 5 minutes (.08) to maintain radiation-exposure records to 15 minutes (.25) for employers to prepare a written report of employee overexposure for submission to OSHA.

Total Annualized capital/startup costs: $0.

Total Annualized costs (operating/maintaining systems or purchasing services): $1,719,720.

Description: The information-collection requirements mandated by the Ionizing Radiation Standard (§ 1910.1096); protect employees from the adverse health effects that may result from overexposure to ionizing radiation. These requirements specify that employers must telephone OSHA if they expose employees to radiation above the level defined by the Standard, send written reports of radiation overexposure to OSHA, maintain employee exposure records, and furnish these records to employees on request.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Construction Crane or Derrick Annual Inspection.

OMB Number: 1218–0113.

Frequency: Annually.

Affected Public: Business or other for-profit.

Total Burden Hours: 1 hour.

Number of Respondents: 132,737.

Annual Responses: 132,737.

Estimated Time Per Respondent: 0.

Total Annualized capital/startup costs: $0.

Total Annualized costs (operating/maintaining systems or purchasing services): $0.

Description: Paragraph (a)(6) of the Standard requires employers to perform annual inspections of cranes and derricks and to establish and maintain a written record of the dates and results of these inspections. The inspections identify problems such as deterioration caused by exposure to adverse weather conditions, worn components and other flaws and defects that develop during use, and accelerated wear resulting from misalignments of connecting systems and components.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Powered Platforms for Building Maintenance (29 CFR 1910.66).

OMB Number: 1218–0121.

Frequency: Annually; monthly; on occasion.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Total Burden Hours: 119,645.

Number of Respondents: 990.

Annual Responses: 167,569.

Estimate Time per Respondent: Varies from 1 minute (0.02 hour) (to maintain a training record) to 10 hours (to inspect/test building-support structures and the components of a power platform.

Total Annualized capital/startup costs: $0.

Total Annualized (operating/maintaining systems or purchasing services): $0.

Description: Paragraph 1910.66(e)(9) requires that employers develop and implement a written emergency action plan for each kind of working platform operation. The plan must explain the emergency procedures which are to be followed in the event of a power failure, equipment failure or other emergencies which may be encountered. Employees are expected to inform themselves about the building emergency escape routes, procedures and alarm systems before operating a platform. Before initial assignment and whenever the plan is changed, the employer shall review with each employee those parts of the plan which the employee must know to protect himself or herself in the event of an emergency.

Paragraphs (g)(2)(i) and (g)(2)(ii) require that building supporting structures and all parts of the equipment undergo periodic inspection and tests by a competent person at intervals not exceeding 12 months. Paragraph (g)(2)(iii) requires the building owner to maintain and disclose, upon request, a certification record of each inspection and test. Paragraph (g)(3)(i) requires a competent person to perform a maintenance inspection and, where necessary, a test of each platform installation every 30 days. If the work cycle is less than 30 days, the inspection and/or test shall be made prior to each work cycle.

Paragraph (g)(3)(ii) requires the building owner to maintain a certification record of each inspection and test, and to disclose the record upon request. Paragraph (g)(5)(iii) requires a thorough inspection of suspension wire ropes in service once a month. Paragraph (g)(5)(v) requires the building owner to maintain a certification record of each monthly inspection and to disclose the record upon request.

Paragraph 1910.66(i)(1)(iv) requires the employer to develop written work procedures to be used to train employees. The written work procedures shall address the operation, safe use, and inspection of powered platforms. The employer would then prepare a certification record (under 1910.66(i)(1)(v)) to verify that the training has been administered. The final group of information collection requirements in the standard pertains to a number of provisions requiring tags and labels. It has been general industry practice for the manufacturer or installer of powered platforms to provide these tags and labels. However, it is estimated that the manufacturers and installers will not provide these tags and labels 10 percent of the time. Paragraph 1910.66(f)(5)(i)(C) requires a load rating plate to be affixed to each suspended unit.

Paragraph 1910.66(f)(5)(ii)(N) requires the compartment for an emergency electric operating device to be labeled with instructions for use. Paragraphs 1910.66(f)(7)(vi), 1910.66(f)(7)(vii), and 1910.66(f)(7)(viii) require the attachment of a tag on a suspension wire rope when it is installed, renewed or resocketed.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Specifications for Accident Prevention Signs and Tags (29 CFR 1910.145).

OMB Number: 1218–0132.

Frequency: On occasion.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal Government; State, Local or and Tribal Government.

Total Burden Hours: 5,600.

Number of Respondents: 112,000.

Annual Responses: 112,000.

Estimated Time per Respondent: 3 minutes (0.05 hours).

Total Annualized capital/startup costs: $0.

Total Annualized costs (operating/maintaining systems or purchasing services): $0.

Description: A number of OSHA general industry (i.e., 29 CFR part 1910) standards require employers to post signs and tags notifying employees of workplace safety and health hazards. To meet these requirements, paragraph (a)(2) of 29 CFR 1910.145 mandates that employers use signs and tags that conform to specific design and wording requirements. In addition, employers must be select signs and tags that are appropriate to the dangers and hazards identified in the workplace; paragraphs (c)(1)(i), (c)(2)(i), (c)(3), (e)(4), (f)(3), (f)(5) through (f)(7), and (f)(8)(i) of the Standard specify the signs and tags that employers must select for these dangers and hazards. In addition, paragraphs (d)(1) through (d)(10), (e)(2), (f)(4)(i) through (f)(4)(iv), (f)(7), and (f)(8)(ii) provide the design and wording requirements for these signs and tags.

In summary, employers must ensure that the signs and tags selected are appropriate for the identified dangers and hazards and meet the design and wording requirements 29 CFR 1910.145. These paperwork requirements properly alert employees to workplace dangers and hazards, thereby preventing workplace-related injury and death.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Logging Operations (29 CFR 1910.266).

OMB Number: 1218–0198.

Frequency: Annually; On occasion.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Total Burden Hours: 6,350.

Number of Respondents: 14,000.

Annual Responses: 110,880.

Estimated Time per Respondent: Varies from 2 minutes (0.03 hour) to 5 minutes (0.08 hour).

Total Annualized capital/startup costs: $0.

Total Annualized cost (operating/maintaining systems or purchasing services): $0

Description: Paragraph (i)(1) of 29 CFR 1910.266 requires employers to provide training for each employee, including supervisors.To meet this requirement, employers must conduct the training at the frequencies specified by paragraph (i)(2).

Paragraph (i)(3) specifies that an employee's training must consist of the following elements: Safe work practices;

including the use, operation, and maintenance of tools, machines, and vehicles the employee uses or operates, as well as procedures, practices, and requirements of the employer's worksite; recognition and control of health and safety hazards associated with the employee's specific work tasks and logging operations in general; and the requirements of the standard. Under paragraph (i)(7), employers must assure that every employee, including supervisors, receive first-aid and CPR training, this training must, at a minimum, conform to the requirements listed Appendix B of the standard.

Paragraph (i)(10)(i) specifies that employers must certify the training provided to employees.This certification must be in writing and provide the following information: The name/identifier of the employee; the date(s) of the training; and either the signature of the employer or the individual who conducted the training. Paragraph (i)(10)(ii) requires employers to maintain the most recent certification for training completed by an employee.

Training employees and supervisors in safe work practices and to recognize and control the safety and health hazards associated with their work tasks and overall logging operations enables them to prevent serious accidents by using specific procedures and equipment in a safe manner to avid or to control dangerous exposures to these hazards. In addition, the requirement to train every employee and supervisor in first-aid and CPR optimizes their availability to administer emergency treatment to employees injured during logging operations; universal training is critical because logging operations occur at isolated locations with employees and supervisors distributed over large work areas. This training requirement prevents serious injuries that occur in this highly-hazardous industry from becoming even more serious or fatal.

Establishing and maintaining written certification of the training provided to each employee assures the employer that every employee receives the training specified by the standard, and at the required frequencies. In addition, these records provide the most efficient means for an OSHA compliance officer to determine whether or not an employer performed the required training at the necessary and appropriate frequencies.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Storage and Handling of Anhydrous Ammonia (29 CFR 1910.111).

OMB Number: 1218–0208.

Frequency: On occasion.

Affected Public: Business or other for-profit; not-for-profit institutions; Farms; State, Local or Tribal Government.

Total Burden Hours: 56.

Number of Respondents: 330.

Annual Responses: 330.

Estimated Time per Respondent: 10 minutes (0.17 hour).

Total Annualized capital/startup costs: $0.

Total Annualized costs (operating/maintaining systems or purchasing services): $0.

Description: Paragraph (b)(3) of 29 CFR 1910.111 specifies that systems have nameplates if required, and that these nameplates ''be permanently attached to the system so as to be readily accessible for inspection * * *.'' In addition, this paragraph requires that markings on containers and systems covered by paragraphs (c) (''Systems utilizing stationary, nonrefrigerated storage containers''), (f) (''Tank motor vehicles for the transportation of ammonia''), (g) (''Systems mounted on farm vehicles other than for the application of ammonia''), and (h) (''Systems mounted on farm vehicles for the application of ammonia'') provide information regarding nine specific characteristics of the containers and systems. Similarly, paragraph (b)(4) states that information regarding eight specific characteristics of each container ''shall be on the container itself or on a nameplate permanently attached to it.''

The required markings ensure that employers use only properly designed and tested containers and systems to store anhydrous ammonia, thereby preventing accidental release of, and exposure of employees to, this highly toxic and corrosive substance. In addition, these requirements provide the most efficient means for an OSHA compliance officer to ensure that the containers and systems are safe.

Ira L. Mills,

Department Clearance Officer.

[FR Doc. 01–17400 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 25, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at (202) 693–4158 or Email *Howze-Marlene@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission or responses.

Type of Review: Extension of a currently approved collection.

Agency: Bureau of Labor Statistics (BLS).

Title: General Inquiries to State Agency Contacts.

OMB Number: 1220–0168.

Affected Public: State, Local, or Tribal Government.

Frequency: As needed.

Number of Respondents: 55.

Number of Annual Responses: 23,890.

Estimated Time Per Response: 40 minutes (average).

Total Burden Hours: 15,762.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Bureau of Labor Statistics (BLS) awards funds to State agencies in the 50 States, the District of Columbia, Puerto Rico, Guam, American Samoa, and Virgin Islands (hereinafter referred to as the ''States'') of the operation of the Labor Market Information (LMI) and/or Occupational

Safety and Health Statistics (OSHS) Federal/State cooperative statistical programs.

To ensure the timely flow of information and to be able to evaluate and improve BLS/State cooperative programs, it is necessary to conduct ongoing communications between the BLS and its State partners. Whether information requests deal with program deliverables, program enhancements, or administrative issues, questions and dialogue are crucial.

In order to conduct these communications, the BLS is requesting OMB approval of general inquiries, allowing dialogue between the BLS and its State partners. Due to the day-to-day and sometimes urgent nature of these information requests, these inquiries are conducted on an ongoing basis.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–17401 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

[SGA 01–09]

High School/High Tech Realignment Grants

AGENCY: Office of Disability Employment Policy, Department of Labor.

ACTION: Notice of availability of funds and solicitation for grant applications.

SUMMARY: The U.S. Department of Labor (DOL), Office on Disability Employment Policy (ODEP) announces the availability of $300,000 to award twenty competitive grants in the amount of $15,000 each. The purpose of this Solicitation for Grant Application (SGA) is to invite proposals from eligible candidates. Grants will be awarded for a one-year period.

The purpose of these grants is to fund the realignment of currently operating High School/High Tech (HS/HT) programs with the local areas' Workforce Investment Act (WIA) of 1998 youth programs (WIA Local Workforce Investment Boards and their Youth Councils, Job Corps Centers, Youth Opportunity Grant programs, WIA Formula-Funded Youth Programs, WIA Native American Programs or WIA Migrant Worker programs). The goal of these realignment grants is to develop strategies, relationships, joint funding and/or support through which HS/HT programs for youths with disabilities enter into a new or stronger partnerships with at least one of the WIA youth-focused programs mentioned above.

The HS/HT program is designed to provide young people with disabilities an opportunity to explore educational opportunities leading to technology-related careers. It serves either in-school or out-of-school youth with disabilities in a one-year long program of corporate site visits, mentoring, job shadowing, guest speakers, after school activities and paid summer internships. In addition, the HS/HT program responds to all four of WIA's youth programming themes: employment preparation; educational achievement; support; and leadership.

The purpose of this SGA is to help the existing HS/HT programs associated with ODEP to entered into a new or stronger partnership with local WIA operations or programs. This SGA is designed to demonstrate both the merits and techniques of bringing the High School/High Tech program into alignment and full partnership with WIA's youth-related programs.

DATES: One (1) ink-signed original, complete grant application plus three (3) copies of the Technical Proposal and three (2) copies of the Cost Proposal shall be submitted to the U.S. Department of Labor, Procurement Services Center, Attention Grant Officer, Reference SGA 01–09, Room N–5416, 200 Constitution Avenue, NW., Washington, DC 20210, not later than 4:45 p.m. EST, August 10, 2001. Hand-delivered applications must be received by the Procurement Services Center by that time.

ADDRESSES: Grant applications must be hand delivered or mailed to U.S. Department of Labor, Procurement Services Center, Attention: Grant Officer, Reference SGA 01–09, Room N–5416, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Applicants must verify delivery to this office directly through their delivery service and as soon as possible.

FOR FURTHER INFORMATION CONTACT: Applications will not be mailed. The **Federal Register** may be obtained from your nearest government office or library. Questions concerning this solicitation may be sent to Cassandra Willis, at the following Internet address: *willis-cassandra@dol.gov.*

Late Proposals

The grant application package must be received at the designated place by the date and time specified or it will not be considered. Any application received at the Procurement Services Center after 4:45 p.m. ET, August 10, 2001, will not be considered unless it is received before the award is made and:

1. It was sent by registered or certified mail not later than the fifth calendar August 10, 2001;

2. It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated; or

3. It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two (2) working days, excluding weekends and Federal holidays, prior to August 10, 2001.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped or otherwise place impression (*not* a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore applicants should request the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee is the date entered by the Post Office receiving clerk on the ''Express Mail Next Day Service-Post Office to Addressee'' label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Services Center on the application wrapper or other documentary evidence or receipt maintained by that office. Applications sent by telegram or facsimile (FAX) will not be accepted.

SUPPLEMENTARY INFORMATION:

I. Authority

Consolidated Appropriations Act, 2001, Public Law 106–554,114 STAT 2763A–10, 29 U.S.C. 557(b).

II. Background

Often the challenges that young people with disabilities face when obtaining jobs and careers in technology-related occupations is overlooked. As a result, youths with disabilities are seldom afforded post-secondary preparation and educational opportunities leading to internships and placements in technology-related careers. This is a significant loss of potential when we realize that: (1) People with disabilities have already demonstrated that they can be successful in these occupations; (2) technology jobs represent an ever increasing segment of the workforce; and (3) many current school-to-careers initiatives do not always include students with disabilities.

WIA youth focused entities and programs (WIA Local Boards and their Youth Councils, Job Corps Centers, Youth Opportunity Grant programs, WIA Formula-Funded Youth Programs, WIA Native American Programs or WIA Migrant Worker programs), hold tremendous potential to support career development activities for young people with disabilities.

HS/HT programs are now in operation in 60 communities across the nation. HS/HT graduates are twice as likely as other youth with disabilities to pursue post-secondary education. In some HS/HT programs, as many as 70 percent of their HS/HT graduates move on to post-secondary education. HS/HT clearly enhances expectations, education achievement and eventual employment outcomes for a population who, without this intervention, is far more likely to move onto the Social Security rolls than to find competitive employment in technology-related occupations. As a community-based program, the HS/HT Program works within community systems to help coordinate the delivery of education and transition services to students with disabilities. Locally-based High School/High Tech programs represent community-based partnerships of local stakeholders that include employers, educators, consumers, family members, and workforce system agencies, especially rehabilitation professionals. The HS/HT program offers local WIA programs a proven technique for developing improved systems and employment outcomes for young people with disabilities.

The goals of HS/HT match WIA's youth programming themes of employment preparation, educational achievement, support, and leadership. The HS/HT model includes eight of the 10 WIA required youth programming elements:

1. Summer employment opportunities;
2. Work experience;
3. Occupational skills training;
4. Tutoring;
5. Support services;
6. Adult mentoring;
7. Comprehensive guidance; and
8. Leadership development (WIA, sec. 129(c)(2), 29 U.S.C. 2854(c)(2)).

Nonetheless, WIA and HS/HT programs have different areas of expertise. By linking these two programs, youth who are often under served and misunderstood will receive effective and appropriate services.

Thus, the purpose of this SGA is to begin to bring these two resources together in a demonstration on how they can be mutually supportive. Under a separate Solicitation for Grant Application, a proposed WIA Disability Technical Assistance Consortium for Youth is to be funded. Among its responsibilities will be to provide technical assistance to both new and existing HS/HT sites, as well as to support bringing them into alignment with WIA youth programs. Ultimately, it is envisioned that the HS/HT Program will become one more model program helping WIA youth initiatives better serve youth with disabilities.

III. Purpose

The U.S. Department of Labor's Office on Disability Employment Policy (ODEP), the sponsoring agency of this SGA, was formed under the authority of the DOL's FY '01 appropriations, and by a supporting Executive Order 13187 of January 10, 2001, transferring the assets of the former U.S. President's Committee on Employment of People with Disabilities (PCEPD) to the DOL. ODEP operates a number of programs that are designed to assist with the employment and training of persons with disabilities, including youth with disabilities.

One of ODEP's key youth programs is the High School/High Tech (HS/HT) program. The High School/High Tech programs work with community systems to coordinate the delivery of educational and transitional services to youths with disabilities. Local High School/High Tech programs represent partnerships of local, state and national stakeholders that include employers, educators, rehabilitation professionals, consumers, and parents.

As a community-based, work-based, and school-based program, High School/High Tech is designed to provide opportunities for students with disabilities to explore careers in technology-related occupations. HS/HT students across the nation learn first-hand what it's like to work in high tech environments. Site visits, mentoring, job/career shadowing, and paid summer internships all provide students with the opportunities to learn more about careers in science, engineering and technology-related fields. HS/HT students also work on developing career goals. In localities where a High School/High Tech program is in place, 20 percent to 70 percent of the program participants go on to post-secondary education. The national average for the population, without this intervention, is six percent to nine percent (9%) (American Council on Education, 1999).

To learn about the structure and operations of the High School/High Tech Program, consult the HS/HT Program Web site: *http://www.dol.gov/odep/public/programs/high.htm* and the High School/High Tech Program Guide at: *http://www.dol.gov/odep/public/programs/high.htm.*

IV. Statement of Work

These grants are to assist operating existing High School/High Tech programs to re-align and enhance their program to achieve the following objectives:

1. Develop model strategies, relationships, joint funding or support, and joint programming through which the HS/HT program for youths with disabilities enters into new or stronger partnerships with at least one WIA entity or program component (WIA Local Boards and their Youth Councils, Job Corps Centers, Youth Opportunity Grant programs, WIA Formula-Funded Youth Programs, WIA Native American Programs or WIA Migrant Worker programs);

2. Demonstrate how the HS/HT model can provide the WIA program with a program model to improve the continuing (post-secondary) education and employment of young people with disabilities;

3. Demonstrate how the HS/HT model can deliver WIA's youth program themes and meet the required elements for young people with disabilities;

4. Serve at least 10 young people with disabilities for one year with the core elements of a HS/HT program (corporate site visits, mentioning, job shadowing, relevant guest speakers, after school activities and paid summer internships) in alignment with a WIA program;

5. Cooperate with ODEP and its technical assistance consortium to provide information and advice to other WIA youth programs on how either the HS/HT model can be replicated in their communities or how existing HS/HT

programs can be brought into alignment with local WIA programs; and

6. Describe plans to report demographic characteristics of program participants, types of programming activities and program outcomes (post-secondary education and employment) of youth with disabilities served through HS/HT.

V. Funding Availability

The period of performance will be 12 months from the date of execution by the Government.

VI. Eligible Applicants

Eligible applicants are limited to the operators of existing High School/High Tech programs working in cooperation with the Office on Disability Employment Policy of the U.S. Department of Labor.

Please note that eligible grant/cooperative agreement applicants must not be classified under the Internal Revenue Code as a Section 501(c)(4) entity. See 26 U.S.C. 506(c)(4). According to Section 18 of the Lobbying Disclosure Act of 1995, an organization, as described in Section 501(c)(4) of the Internal Revenue Code of 1986, that engages in lobbying activities will not be eligible for the receipt of federal funds constituting an award, grant, or loan.

VII. Application Contents

General Requirements—Two copies and an original of the proposal must be submitted, one of which must contain an original signature. Proposals may be submitted by the applicant only.

The proposal shall consist of a Project Narrative which must be no more than 10 double-spaced, single sided, numbered pages. The Project Narrative must meet the statement of work outlined in Section II above.

Applications must include a detailed financial plan which identifies by line item the budget plan designed to achieve the goals of this grant. The Financial Proposal must contain the SF–424, Application for Federal Assistance, (Appendix A) and Budget Information Sheet SF–424A (Appendix B).

In addition, the budget must include on a separate page a detailed cost analysis of each line item. Justification for administrative costs must be provided. Approval of a budget by DOL is not the same as the approval of actual costs. The individual signing the SF–424 on behalf of the applicant must represent the responsible financial and administrative entity for a grant should that application result in an award. The applicant must also include the Assurances and Certifications Signature Page (Appendix C).

VIII. Evaluation Criteria/Selection

A. Evaluation Criteria

The application should include appropriate information of the type described below:

1. Significance of the Proposed Project (15 Points)

In evaluation the significance of the proposed project, the Department will consider the following factors.

1. The current relationship, if any with your area's WIA program.

2. The numbers of young persons with disabilities served in your HS/HT program, their outcomes (post-secondary education and employment), and the program's potential for serving more students.

3. Related issues that affect the realignment of your HS/HT program with your local WIA program.

2. Quality of the Project Design (30 Points)

In evaluation the quality of the proposed project, the Department will consider the following factors.

a. The technical plan for creating a new or greater alignment between your HS/HT program and your area's WIA program through partnership formation, joint funding arrangements, and/or joint programming opportunities. This should include a plan for providing your WIA program with a presentation on how your HS/HT program can help them meet your shared objective of improving the continuing (post-secondary) education and employment of young people with disabilities in technology-related occupations. This discussion should also cover a review on how the HS/HT model can deliver WIA's youth program themes and elements to young people with disabilities; and how it will increase your program's capacity to serve more students with disabilities.

b. The plan for tracking the demographic characteristics of program participants, types of programming activities conducted as well as HS/HT participant outcomes. These include:

1. numbers of youths with disabilities placed in competitive employment, including paid internships;

2. numbers of youths with disabilities who continue with post secondary education; and,

3. comparative data on local youths with disabilities not served in the HS/HT program.

3. Collaboration and Coordination (20 Points)

In evaluating the collaboration and coordination of the proposed project, the Department will consider the following factors.

a. Statement(s) of support and leadership from one or more of your area's WIA system elements (WIA Local Board, including its Youth Council, a Job Corps Center, a Youth Opportunity Grant program, a WIA Formula Funded Youth Program, a WIA Native American or a WIA Migrant Worker program).

b. Support from key community organizations, especially special education and vocational rehabilitation.

c. Support from area employers, people with disabilities and family members.

4. Innovations and Model Services (20 Points)

In evaluation the innovations and model services of the proposed project, the Department will consider the following factors:

a. Recommendations for strategies to cooperate in a technical assistance effort providing information and advice to other HS/HT and WIA program operators.

d. Strategy for meeting the needs of youth with disabilities from diverse cultures and/or ethic groups. (Note: the NAACP, National Urban League, La Raza, and ASPIRA all operate at least one model HS/HT program dedicated to serving minority youths with disabilities).

5. Demonstrated Capability of the Organization(s) (15 Points)

In evaluation the capability of the organization(s) involved in the proposed project, the Department will consider the following factors:

a. The names and qualifications of staff and related technical experts to support the objectives of this SGA.

b. Examples of prior successes in serving youths with disabilities and already existing relationships with local WIA programs.

B. Selection Criteria

Except as specifically provided, acceptance of a proposal and an award of federal funds to sponsor any program(s) is not a waiver of any grant requirement and/or procedures. Grantees must comply with all applicable Federal statutes, regulations, administrative requirements and OMB Circulars. For example, the OMB circulars require, and an entity's procurement procedures must require that all procurement transaction shall be conducted, as practical, to provide open

and free competition. If a proposal identifies a specific entity to provide the services, the award does not provide the justification or basis to sole-source the procurement, i.e., avoid competition.

A panel will objectively rate each complete application against the criteria described in this SGA. The panel recommendations to the Grant Officer are advisory in nature. The Grant Officer may elect to award grants either with or without discussion with the applicant. In situations where no discussion occurs, an award will be based on the signed SF 424 form (see Appendix A), which constitutes a binding offer. The Grant Officer may consider the availability of funds and any information that is available and will make final award decisions based on what is most advantageous to the government, considering factors such as:

A. Findings of the grant technical evaluation panel; and,

B. Geographic distribution of the competitive applications.

IX. Reporting

Grantees are required to provide typed reports to DOL/ODEP or its designee on the status of their program alignment on a quarterly basis by March 30, June 30, September 30, and December 31, for a one year period. It is estimated that the quarterly report will take two hours to complete.

X. Administration Provisions

A. Administrative Standards and Provisions

Grantees are strongly encouraged to read these regulations before submitting a proposal. The grant awarded under this SGA shall be subject to the following:

29 CFR Part 95—Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, etc.

29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts, and Agreements.

29 CFR Part 97—Uniform Administrative Requirement for Grants and Cooperative Agreements to State and Local Governments.

B. Allowable Cost

Determinations of allowable costs shall be made in accordance with the following applicable Federal cost principles:

State and Local Government—OMB Circular A–87

Nonprofit Organizations—OMB Circular A–122

Profit-making Commercial Firms—48 CFR Part 31

C. Grant Assurances

The applicant must include the attached assurances and certifications.

Profit will not be considered an allowable cost in any case.

Signed at Washington, D.C. this 6th day of July, 2001.

Lawrence J. Kuss,

Grant Officer.

BILLING CODE 4510–23–P

Appendix A. Application for Federal Assistance, Form SF 424

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction / Preapplication ☐ Construction ☐ Non-Construction		**3. DATE RECEIVED BY STATE**	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, State, and zip code):*	Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN):*

☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ **New** ☐ **Continuation** ☐ **Revision**

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify):*

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ — ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.):*

13. PROPOSED PROJECT		**14. CONGRESSIONAL DISTRICTS OF:**	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ 0.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: -- "New" means a new assistance award. -- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. -- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

Appendix B. Budget Information Sheet, Form SF 424A

INSTRUCTIONS FOR THE SF-424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1-4 Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in *Column* (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 - Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a-i - Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program

INSTRUCTIONS FOR THE SF-424A (continued)

narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$ 0.00
2.						0.00
3.						0.00
4.						0.00
5. Totals		$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$ 0.00
b. Fringe Benefits					0.00
c. Travel					0.00
d. Equipment					0.00
e. Supplies					0.00
f. Contractual					0.00
g. Construction					0.00
h. Other					0.00
i. Total Direct Charges *(sum of 6a-6h)*	0.00	0.00	0.00	0.00	0.00
j. Indirect Charges					0.00
k. TOTALS *(sum of 6i and 6j)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00
7. Program Income	$	$	$	$	$ 0.00

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SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$ 0.00
9.				0.00
10.				0.00
11.				0.00
12. TOTAL *(sum of lines 8-11)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$ 0.00	$	$	$	$
14. Non-Federal	0.00				
15. TOTAL *(sum of lines 13 and 14)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Appendix C. Assurances and Certifications Signature Page

ASSURANCES AND CERTIFICATIONS - SIGNATURE PAGE

The Department of Labor will not award a grant or agreement where the grantee/recipient has failed to accept the ASSURANCES AND CERTIFICATIONS contained in this section. By signing and returning this signature page, the grantee/recipient is providing the certifications set forth below:

A. Assurances - Non-Construction Programs

B. Certifications Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters and Drug-Free/Tobacco-Free Workplace Requirements.

C. Certification of Release of Information

APPLICANT NAME and LEGAL ADDRESS:

If there is any reason why one of the assurances or certifications listed cannot be signed, please explain. Applicant need only submit and return this signature page with the grant application. All other instructions shall be kept on file by the applicant.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL TITLE

APPLICANT ORGANIZATION DATE SUBMITTED

Please Note: This signature page and any pertinent attachments which may be required by these assurances and certifications shall be attached to the applicant's Cost Proposal.

[FR Doc. 01–17411 Filed 7–10–01; 8:45 am]
BILLING CODE 4510–23–C

DEPARTMENT OF LABOR

WIA Disability Technical Assistance Consortia for Adults and Youth

AGENCY: Office of Disability Employment Policy, Department of Labor.

ACTION: Notice of availability of funds and solicitation for grant applications (SGA 01–04).

SUMMARY: The U.S. Department of Labor (DOL)/or Department/, Office of Disability Employment Policy (ODEP), announces the availability of up to a total of $2.65 million to award two (2) competitive grants [1]. These grants are designed to fund two (2) related, but distinct, activities. The purpose of this Solicitation for Grant Applications (SGA) is to invite proposals from eligible candidates for each of the initiatives. Eligible candidates may bid on one of the two initiatives or may submit separate bids for each initiative. The Government reserves the right to award both grants to the same grantee, based on the best interests of the Government. Grants will be awarded for a one-year period and may be renewed (individually or in combination) with additional optional one-year grants for each of up to four (4) years.

Both grants are to provide assistance to states and local area programs under the Workforce Investment Act of 1998 (WIA) in order to enable them to better serve people with disabilities.

The first of these two WIA Disability Technical Assistance grants, which focuses on adults with disabilities, is designed to deliver technical assistance support to WIA One-Stop Career Centers, State and Local Workforce Investment Boards and other key leaders that oversee and operate these adult oriented programs, to enable them to increase employment outcomes for people with disabilities.

The second WIA Disability Technical Assistance grant is designed primarily to deliver technical assistance to build the capacity of emerging and existing WIA-assisted youth programs to provide comprehensive services to young people with disabilities. Target audiences for this technical assistance will be State and Local Boards, Youth Councils and WIA grant recipients. In addition, this youth technical assistance effort will help to bridge the gap remaining between the broader workforce development system and other disability specific programs and services. Another objective of this youth technical assistance effort will be to provide program support to ODEP's High School/High Tech (HS/HT) program.

In addition, these two technical assistance efforts are expected to provide technical assistance services to four other (DOL/ODEP) grant programs. Grants for these programs are planned for release during this fiscal year. These are:

1. Customized Employment Grants for One-Stop Career Centers designed to demonstrate enhanced services for adults with disabilities;

2. Innovative Grants to WIA Youth Programs that are designed to demonstrate enhanced services to youth with disabilities;

3. High School/High Tech Realignment Grants to assist existing programs in entering into WIA partnerships; and

4. High School/High Tech Start-up Grants to assist localities in starting programs at new locations, in partnership with WIA activities.

DATES: A bidder's conference will be held on July 18, 2001. The purpose of this conference is to provide interested parties the opportunity to ask questions concerning these grants. Transcripts of the conference will be made available. Requests may be sent to (see For Further Information Contact) or write to the address below.

One (1) ink-signed original, complete grant application plus three (3) copies of the Technical Proposal and three (3) copies of the Cost Proposal shall be submitted to the U.S. Department of Labor, Procurement Services Center, Attention Grant Officer, Reference SGA 01–04, Room N–5416, 200 Constitution Avenue, NW., Washington, DC 20210, not later than 4:45 p.m. ET, August 10, 2001. Hand-delivered applications must be received by the Procurement Services Center by that time.

ADDRESSES: Grant applications must be hand delivered or mailed to U.S. Department of Labor, Procurement Services Center, Attention: Grant Officer, Reference SGA 01–04, Room N–5416, 200 Constitution Avenue, NW., Washington, DC 20210. Applicants must verify delivery to this office directly through their delivery service and as soon as possible.

FOR FURTHER INFORMATION, CONTACT: Applications will not be mailed. The **Federal Register** may be obtained from your nearest government office or library. Questions concerning this solicitation may be sent to Cassandra Willis, at the following Internet address: *willis-cassandra@dol.gov.*

Late Proposals: The grant application package must be received at the designated place by the date and time specified or it will *not* be considered. Any application received at the Procurement Services Center after 4:45 p.m. ET, August 10, 2001, will not be considered unless it is received before the award is made and:

3. It was sent by registered or certifed mail not later than the fifth calendar day before August 10, 2001.

4. It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated; or

3. It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two (2) working days, excluding weekends and Federal holidays, prior to August 10, 2001.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped or otherwise place impression (*not* a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore applicants should request the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee is the date entered by the Post Office receiving clerk on the ''Express Mail Next Day Service-Post Office to Addressee'' label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Services Center on the application wrapper or other documentary evidence or receipt maintained by that office. Applications sent by telegram or facsimile (FAX) will *not* be accepted.

SUPPLEMENTARY INFORMATION:

[1] The term ''grants'' in this SGA refers to grants/cooperative agreements.

I. Authority

Consolidated Appropriations Act, 2001, Public Law 106–554, 114 STAT 2763A–10, 29 USC 557(b).

II. Background

This SGA supports the President's New Freedom Initiative which is designed to increase the number of people with disabilities, both youth and adults, who enter, re-enter, and remain in the workforce. The New Freedom Initiative [2] is dedicated to increasing investment in and access to assistive technologies, a quality education, and increasing the integration of Americans with disabilities into the workforce and into community life. This initiative heightens the importance of similar DOL initiatives designed to increase the employment rate of people with disabilities.

There are approximately 54 million Americans with disabilities, 30 million of whom are of working age. Only 26% of working age adults with disabilities have a job or a business compared to 82% of those without disabilities (U.S. Bureau of the Census, Survey of Income and Program Participation, 1997). The Department of Labor report, *Futureworks* (2000) points out that while educational attainment made some difference in the rate of unemployment for people with disabilities, the employment figures for workers with significant disabilities are in sharp contrast to those for workers without disabilities. Among workers with college degrees, only 52% of those with severe disabilities reported labor market activity, compared to 90% of those with no disability (a gap of 38 percentage points.)

Title IV of the Workforce Investment Act of 1998 (Public Law 105–220), which amends the Rehabilitation Act, included several findings relating to ethnic and racial minorities as traditionally under-served populations in the vocational rehabilitation system (29 U.S.C. 718). Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for Native Americans is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be significantly disabled. According to the U.S. Census Bureau's 1994–1995 data approximately 85.5% of African-Americans with severe disabilities and 75.4% of Hispanics with severe disabilities are not working. Individuals with disabilities who are members of other minority groups are also disproportionately represented among the unemployed. Among the reasons for the disproportionately high rate of unemployment are disparities in the rehabilitation services provided to minorities with disabilities, fewer educational opportunities, poor outreach to minority communities, and inadequate transportation and housing.

As the workforce investment system evolves to become a point of streamlined entry to employment, it is critical that this system have the capacity to provide meaningful and effective opportunity to people with disabilities to secure employment. The system must develop critical expertise and linkages with other essential programs in order to provide a competent array of programs and services that create choices for people with disabilities to successfully become employed.

In addition, a key to increasing the employment of people with disabilities is to ensure that young people with disabilities are provided resources and assistance to move from school to work, as opposed to becoming dependent on welfare or other benefits programs. One way of accomplishing this goal is to increase the participation of youths with disabilities in mainstream workforce investment activities under WIA.

Youths with disabilities spend a significant portion of their time in poverty, dependent upon public assistance programs and relegated to the margins of society. They may encounter unfriendly work preparation programs that are reluctant to serve them. The educational and employment achievements of youth with disabilities are too low. According to the U.S. Department of Education, the national high school graduation rates (e.g., diplomas, GED, alternative certificates) for students with disabilities are below that of youth without disabilities. According to the National Center on Education Statistics (2001) 88% of students without disabilities graduate; according to the Office of Special Education Programs (2000) 62% of youth with disabilities graduate.[3] Students with disabilities experience a school drop out rate of 31% compared to 11% of non-disabled youth. Youth with emotional disabilities experience an even higher drop out rate of 54%. It is estimated that only one-third of young people with disabilities who need job training receive it. Young people with disabilities also have significantly lower rates of participation in post-secondary education. Finally, the Social Security Administration has found that many young people with disabilities who enter the Supplementary Security Income (SSI)/ Social Security Disability Insurance (SSDI) rolls are likely to remain on the program rolls for their entire life.

One of the most significant reforms under WIA section 129 (c) [29 U.S.C. 2854(c)], is the consolidation of the year-round youth program and the summer youth program into a single formula-based funding stream. Under WIA, each local workforce investment area must have a year round youth services strategy that incorporates summer youth employment opportunities as one of ten required program elements [WIA section 129 (c) (2) (C.), 29 U.S.C. 2854 (c)(2). The ten program elements reflect successful youth development approaches and focus on the following four key themes:

1. Improving educational achievement (including elements such as tutoring, study skills training, and instruction leading to secondary school completion; drop out prevention strategies, and alternative secondary school offerings);

2. Preparing for and succeeding in employment (including summer employment opportunities, paid and unpaid work experience, and occupational skills training);

3. Supporting youth (including supportive services needs, providing adult mentoring, follow-up services, and comprehensive guidance and counseling); and

4. Offering services intended to develop the potential of young people as citizens and leaders (including leadership development opportunities).

WIA, therefore, provides a variety of workforce investment programs that can assist both youth and adults with disabilities in attaining their career ambitions. The potential for these programs to prepare eligible participants with disabilities for employment is great. Moreover, WIA-funded programs must take up their responsibilities as vital partners in the broad spectrum of preparing individuals for the workforce. These services need to be made available to people with disabilities. Traditionally, however, people with disabilities are not recruited to participate in these programs. WIA

[2] For more information about the New Freedom Initiative, go to the White House web page at www.whitehouse.gov/news/freedominitiatve.

[3] U.S. Department of Education, National Center on Education Statistics, The Condition of Education 2000 in Brief, Jeanne H. Nathanson NCES 2001–045, Washington, D.C.; U.S. Government Printing Office, 2001.

U.S. Department of Education, Office of Special Education and Rehabilitation Services, Twenty-second Annual Report to Congress on the Implementation of the Individuals with Disabilities Act, Washington, D.C.; U.S. Government Printing Office, 2000.

service providers may not be aware of the need to serve youth and adults with disabilities in their communities and may lack the resources to develop strong partnerships and equitable referral and assessment system.

The U.S. Department of Labor has determined that there is an appreciable need for a sustained and coordinated initiative to build the capacity of WIA-assisted programs and their workforce partners, including providers, employers, people with disabilities, family members, and others, to better serve youth and adults with disabilities. This need has been highlighted as a critical priority in the FY 2001 budget appropriation for the Department through the Consolidated Appropriations Act, 2001, Public Law 106–554, 114 STAT 2763A–10, 29 U.S.C. 557(b).

Recently, the Office on Disability Employment Policy (ODEP) was established within DOL (Public Law 106–554) to provide policy direction for serving all individuals with disabilities. Key among ODEP's responsibilities is to provide technical assistance and support designed to assist various DOL programs, and to thereby increase the capacity of those programs to serve people with disabilities.

In order to fulfill its mission, ODEP is implementing a multiple-prong approach.

This approach includes:

1. Under this SGA, the establishment of provider(s) of technical assistance service to support the workforce investment system in building capacity to increase employment for people with disabilities, and to provide critical implementation and analysis to ODEP to assist in its responsibilities for providing recommendations for policy direction;

2. Under a separate SGA, the award of Customized Employment Grants, designed to develop models and to demonstrate to all One-Stop Career Centers and their partners, strategies for maximizing their capacity for serving people with disabilities; and,

3. Under a separate SGA, the award of Innovative WIA Youth Demonstration Grants which are designed to demonstrate to all WIA Youth programs systems change strategies for maximizing their capacity to serve youths with disabilities.

In combination, these activities will substantially contribute to achieving the goals of the President's New Freedom Initiative.

There are other programs which relate to, but are not directly affected by, the technical assistance activities under this SGA. Some examples include DOL's Work Incentive Grants (WIG's) which are designed to enhance service delivery to people with disabilities accessing One-Stop Centers and their programs, by establishing linkages to and among existing state, local and private non-profit entities in order to facilitate seamless service access for these individuals.

In addition, DOL has entered into an interagency agreement with the National Institute on Disability Research and Rehabilitation (NIDRR) and the Rehabilitation Services Administration (RSA) to provide technical assistance to One-Stop Centers through their network of Disability Business Technical Assistance Centers (DBTAC's) and Rehabilitation Community Education Programs (RCEP's). The Ticket-to-Work and Work Incentives Improvement Act provides increased opportunities for people with disabilities who are SSI/SSDI beneficiaries by addressing some of the major barriers encountered by these individuals as they attempt to gain employment. The Department of Education's Office of Special Education Programs recently funded a new National Center on Secondary Education and Transition and the National Youth Leadership Network to increase opportunities for young people with disabilities. The Department of Health and Human Services, through the Health Resources Services Administration's Maternal and Child Health Bureau funds a program to promote the transition and employment of youths with special health care needs called Healthy and Ready to Work. While these efforts are distinct from the consortia supported by this SGA, they are complementary and should work in close cooperation with both the WIA Disability Technical Assistance Consortium for Adults and the Consortium for Youth.

III. Purpose

The purpose of this SGA is to implement two disability technical assistance efforts (adults and youth) in order to support the capacity building for WIA-funded programs and partners and provide policy analysis and information to ODEP about employment and disability. Technical assistance services must seek to form strong linkages with essential programs and experts, including but not limited to:

1. Disability programs and programs with a general audience which can serve adults and youth with disabilities, such as the workforce investment system, vocational rehabilitation, special education, general, adult and vocational education, postsecondary education, small business, health care, social security, housing, and transportation programs and services;

2. Disability and family organizations;

3. Employers in the workforce investment system; and

4. National program and policy experts.

These grantees will also develop partnerships with other researchers, technical assistance providers, dissemination centers, and other essential programs, to assist in organizing and providing technical assistance and disseminating information.

In addition, the project(s) funded under these grants must provide technical assistance to four categories of grantees planned for funding during this fiscal year. These are:

1. Customized Employment Grants for One-Stop Career Centers.

2. Innovative Grants to WIA Youth Programs.

3. High School/High Tech Realignment Grants.

4. High School/High Tech Start-up Grants.

These four other grant programs are required to participate in the technical assistance efforts sponsored under this SGA. These grants will also provide policy implementation research and analysis to the Office of Disability Employment Policy.

Finally, these technical assistance efforts will serve as a repository of the materials, approaches, and results of the other four grant programs and will be charged with including successful approaches in their overall technical assistance work with states and with local WIA-funded programs and partners.

IV. Statement of Work—Option 1; WIA Disability Technical Assistance Consortium for Adults

This initiative will fund a WIA Disability Technical Assistance Consortium for Adults. The overall purpose of this adult technical assistance consortium is to:

1. provide support to grantees awarded under the ODEP Customized Employment SGA, including coordinating strategic planning, technical assistance and capacity building efforts for increasing customized employment and wages of people with disabilities through One-Stop Centers;

2. Collect and analyze employment policy-related information for ongoing feedback to the Office of Disability Employment Policy (ODEP) and otherwise support ODEP as requested in its efforts to increase employment, choice and wages for persons with

disabilities through the workforce investment system, including conducting policy analysis and research on policies and practices used in states as they develop capacity in this area;

3. Coordinate and provide training and technical assistance to DOL regional staff, and State and Local Boards on employment for people with disabilities, including assistance in developing model policies and guidance; and

4. Act as a central locus of information and expertise on employment and disability for WIA partner systems and agencies and others involved in provision of employment and related supports for people with disabilities.

The adult technical assistance consortium must form strong linkages with:

1. Disability programs and generic programs and experts which can serve adults with disabilities, such as the workforce development system, vocational rehabilitation, special education, general, adult and vocational education, postsecondary education, small business, developmental disability, health care, social security, housing, and transportation programs and services;

2. Disability and family organizations;

3. Employers to the workforce development system; and

4. National program and policy experts.

This consortium shall develop partnerships with other researchers, national experts, technical assistance providers, and dissemination centers in organizing and providing technical assistance and disseminating information.

The WIA Technical Assistance Consortium for Adults must provide technical assistance services and materials which include the following:

1. Provide and coordinate strategic planning, technical assistance and capacity building efforts for increasing customized employment and wages of people with disabilities through One-Stops Centers, including information on policies and practices used in states as they develop capacity, including the following:

a. Provide technical assistance, training and information assistance to each of the grantees under the Customized Employment Grants funded by ODEP, including providing consultation, training, materials development, dissemination, linkages to experts and exemplary practices; and otherwise connect stakeholder groups with successful practices in their respective areas in order to increase their capabilities and performance in securing customized employment for people with disabilities.

b. Develop linkages and collaborate with other national federal initiatives providing services and supports for people with targeted disabilities (including but not limited to systems change efforts promoting enduring systems improvement and comprehensive coordination; health care; housing; transportation; education; supported employment; benefits planning and assistance; small business development; technology related assistance; etc.), and other national initiatives as appropriate.

c. Provide technical assistance, training, and information that integrates validated best practices and promising practices for improving choice in employment and increasing wages for people with disabilities into the workforce investment system, including implementation activities to ensure that people with disabilities have access to appropriate supports for employment, including transportation, personal assistance, assistive technology and housing.

2. Provide training and technical assistance to DOL regional staff, and State and Local Boards, and others at the request of ODEP, on employment for people with disabilities, in order to increase professional expertise and provide assistance in developing model policies and guidance, including the following:

a. Provide training and technical assistance to the national and regional staff of DOL's Wage and Hour Division, and others involved in implementation of section 14-(c) of the Fair Labor Standards Act (29 U.S.C. 214 (c.), including providers, to increase their knowledge and capacity about increasing wages for people with disabilities through customized employment.

b. Develop, implement and maintain an assessment of the needs of individual State Boards and ODEP grantees to determine the array, type, and intensity of technical assistance, training, and information to be provided.

c. Coordinate and conduct technical assistance and capacity building activities based on an assessment of needs as well as requests for assistance from DOL regional staff and State and Local Boards.

d. Provide technical assistance, training, and information to increase understanding by systems of disability related employment issues such as health care, transportation, work incentive provisions, benefits planning, housing, etc.

3. Act as a central locus of information and expertise on employment and disability for WIA partner systems and agencies and others involved in providing employment and related supports for people with disabilities, including the following:

a. Provide coordination and information sharing among multiple DOL grantees and initiatives of other agencies related to people with disabilities (such as projects of the Rehabilitation Services Administration (RSA), Office of Special Education Programs (OSEP), Department of Health and Human Services (HHS), Health Care Finance Administration (HCFA), Social Security Administration (SSA), Small Business Administration (SBA), National Institute on Disability and Rehabilitation Research (NIDRR), including coordinating with other national initiatives.)

b. Provide national linkages to information, experts and activities on exemplary and promising practices in a range of areas related to disability.

c. Provide information and conduct initiatives to educate employers, and the general public about the abilities of people with disabilities to work in a wide variety of occupations and contribute to the workforce.

d. Provide information to educate state and local policymakers, systems personnel, and people with disabilities and their families, providers, including educators, and other leaders as appropriate, about changes in policy and practice that facilitate an increase in employment and wages for people with disabilities.

e. Develop and disseminate materials to supplement technical assistance and training. All materials must be made available through an accessible internet web site.

f. Serve as a repository and dissemination center for the information and materials of ODEP grantees and include successful approaches from the grantees in the overall technical assistance, training, and information services approach.

4. Conduct policy studies and otherwise collect and analyze employment policy-related information for ongoing feedback to the Office of Disability Employment Policy (ODEP) and otherwise support ODEP, as requested, in its efforts to increase employment, choice and wages for persons with disabilities through the workforce investment system, including the following.

a. Research, collect and disseminate information from States about effective and meaningful participation of people with disabilities in One-Stop Centers

and the workforce investment system. Work with ODEP in identifying areas for policy research, and provide ongoing feedback using new research and research from aggregated experiences of Customized Employment grantees (funded by ODEP under separate solicitation.) Collaborate with other federal technical assistance projects that provide information and/or technical assistance about increasing employment and needed supports for people with disabilities in conducting policy studies, as appropriate.

b. Conduct studies and analysis about employment characteristics and conditions of people with disabilities currently in segregated settings such as institutions, nursing homes and facility-based settings, and collaborate with ODEP in developing a range of strategies to respond to identified needs.

c. Conduct studies and otherwise respond to requests for information, analysis and other assistance from ODEP on national employment policy as it impacts people with disabilities and the workforce investment system.

Other Requirements

All applicants for the WIA Disability Technical Assistance Consortium for Adults must submit a Management Plan. The Plan will identify the overall organizational design including its functional structure. The Plan must identify key staff members of the Technical Assistance Consortium (including subcontractors) and indicate time commitments for each. Consultants should be identified and resumes included in the Appendix. The Management Plan should also include a system that provides for evaluation and feedback. This system should include the methodology by which information will be gathered and continuous improvements achieved. The Management Plan should also document any ''ramping-up'' of project activities over the project implementation period and provide planned time lines for project activities.

DOL will arrange for an independent evaluation of outcomes, impacts, and benefits of the grants. Grantees must make records available to evaluation personnel, as specified by the Department. Grantees funded under this SGA must make positive efforts to employ and advance in employment qualified individuals with disabilities within project activities.

Applicants and grant recipients funded under this SGA must involve members of four specific groups in implementation of the grant(s):

1. Youth and adults with disabilities;

2. relevant experts in the field of disability (such as disability organizations, researchers, family members and organizations, independent living centers, or service providers and national experts in relevant areas);

3. employers; and,

4. experts in disability policy.

Throughout the course of the project, grantees must collaborate with other research institutes, centers, and studies and evaluations, that are supported by DOL and other relevant Federal agencies. Applicant (and all consortia partners) shall document their organization's commitment to the objectives of the project.

V. Statement of Work—Option 2; WIA Disability Technical Assistance Consortium for Youth

A. WIA-Assisted Youth Programs

This initiative will fund a WIA Disability Technical Assistance Consortium for Youth. The primary purpose of this grant is to enhance the capacity of WIA-assisted youth programs to increase participation and improve results for youth with disabilities. Under WIA, DOL has established a ''Vision for Youth'' that states that all youth, particularly out-of-school youth, will acquire the necessary skills and work experience to successfully transition into adulthood, careers and further education and training. There are four themes for the youth services delivery system developed under WIA:

1. Improvement in educational achievement;

2. Preparation for and success in employment;

3. Supports for youth; and

4. Services to help youth develop as citizens and leaders.

WIA also establishes requirements for the youth activities for providing year round services; follow-up services, summer employment activities, and services to out-of-school youth.

A significant aspect to the WIA-assisted youth programs is the establishment of Youth Councils, as a subgroup of the Local Board. With the approval of the Local Board each Council could develop a coordinated youth policy; strengthen linkages between existing local youth services; draw upon expertise of all related community/employer groups; and bring a youth perspective to the WIA programs. Eligible participants targeted for WIA youth programs include both in-and out-of-school youth, with a large share of resources going towards out-of-school youth; and youth ages 14 to 21. Currently, DOL is investing $2.5 billion across seven WIA and other youth programs: formula-funded youth programs; Job Corps; Apprenticeships; Indian Youth Programs; Migrant Youth Programs; School-to-Work; and the Youth Opportunity Grants Program.

WIA-assisted youth programs hold a tremendous potential to assist youths with disabilities in meeting their employment, postsecondary, and independent living goals. This technical assistance effort is designed to help establish acceptance within the WIA-funded youth programs that both during and after the mandatory secondary school years, WIA-assisted youth services can represent a key pathway to employment for youths with disabilities and should be considered a vital possibility alongside vocational rehabilitation, and postsecondary education. The goal of this technical assistance effort is to deliver the knowledge and understanding needed to enable State and Local Boards, Youth Councils, and WIA-assisted youth program operators to confidently and aggressively recruit, admit, and successfully serve young people with disabilities. The overall purposes of this grant are to:

1. Strategically leverage and build the capacity of WIA-funded youth programs and ensure increasing levels of participation by youths with disabilities;

2. Aid and assist the implementation of ODEP funded Innovative Demonstration Grants to Workforce Investment Act Youth Programs; and

3. Generally support the ODEP leadership in its efforts to advance employment policy for youths with disabilities.

The youth technical assistance consortium shall form strong linkages with:

1. Disability programs and programs with a general audience which can serve youth with disabilities, such as the workforce development system, vocational rehabilitation, special education, general, adult and vocational education, postsecondary education, developmental disability, health care, social security, housing, and transportation programs and services;

2. Disability and family organizations; and

3. Employers to the workforce development system.

This consortium shall develop partnerships and tap into the expertise of other researchers, technical assistance providers, and dissemination centers in organizing and providing technical assistance and disseminating information.

The Technical Assistance Consortium for Young People with Disabilities must perform all of the following:

1. Provide technical assistance, training, and information to assist State and Local Boards, Youth Councils, and WIA-assisted youth programs in the areas of governance, service delivery, performance assessment, technology accessibility, and reasonable accommodations that will result in an increase in the number of youths with disabilities who receive youth services.

2. Provide technical assistance, training, and information to increase understanding by WIA-assisted youth service providers about disability related employment issues such as health care, transportation, work incentive provisions, benefits planning, housing, etc.

3. Provide information to educate relevant stakeholders, including state and local policymakers and systems personnel, including educators, as well as families, and youth about needed changes in policy and practice in order to increase employment and wages for young people with disabilities.

4. Provide information to educate employers and the general public about the abilities of youths with disabilities to work in a wide variety of occupations.

5. Provide technical assistance, training, and information that integrates validated best practices for improving transition results for young people with disabilities into the WIA-assisted youth program elements, including:

a. Promote effective structures, policies, and practices to improve results for youths with disabilities in WIA-assisted programs in core youth program themes and elements;

b. Promote effective service interventions and approaches that help young people with disabilities to overcome barriers to positive education and employment outcomes;

c. Promote the link between academic and occupational skill standards; and on the integration of academic and applied learning in real work settings;

d. Promote youth-centered planning and development (e.g., assessment, choice, rights and responsibilities, life skills, etc.);

e. Promote physical and mental health resources and the link to positive educational and employment outcomes; and

f. Promote strategies for increased business, labor, family, and community involvement.

6. Develop and leverage linkages with other state and local initiatives providing services and supports for young people with disabilities (including but not limited to systems change efforts promoting enduring systems improvement and comprehensive coordination; health care; housing; transportation; education; supported employment; small business development; technology related assistance; private foundations; faith-based initiatives).

7. Provide technical assistance, training, and information (including program evaluation technical assistance) to the ODEP-assisted Innovative Demonstration Grants to Workforce Investment Act Youth Programs.

8. Serve as a repository and dissemination center for the materials developed by ODEP grantees and include successful approaches from the grantees in the overall technical assistance, training, and information services approach.

9. Collaborate with other Federal technical assistance projects that provide information about transition, postsecondary education, employment, and independent living issues for young people with disabilities.

10. Implement and maintain an assessment of the needs of individual State and Local Boards, Youth Councils, WIA-funded youth programs, and ODEP grantees of the overall needs of these audiences to determine the array, type, and intensity of technical assistance, training, and information to be provided.

11. Develop and disseminate materials to supplement technical assistance and training. All materials must be made available through an accessible Internet web site.

B. High School/High Tech/Program Support

Additionally, the WIA Disability Technical Assistance Consortium for Youth grant must provide technical assistance support to ODEP's High School/High Tech program. ODEP's High School/High Tech (HS/HT) program is designed to provide young people with disabilities with an opportunity to explore their interest in pursuing further education leading to a technology related career.[4] It serves either in-school or out-of-school youths with disabilities in a year long program of corporate site visits, mentoring, job shadowing, guest speakers, after school activities and paid summer internships. The HS/HT program responds to all four of WIA's youth programming themes (employment preparation, educational achievement, support, and leadership). It includes eight of the ten WIA required youth programming elements:

1. Summer employment opportunities;
2. Work experience;
3. Occupational skills training;
4. Tutoring;
5. Support services;
6. Adult mentoring;
7. Comprehensive guidance; and
8. Leadership development.

Currently, 60 High School/High Tech (HS/HT) programs are in operation in 18 states. These HS/HT programs began under the national leadership of the former President's Committee on Employment of People with Disabilities (PCEPD). With the beginning of the current federal fiscal year (FY '01), the PCEPD ceased to exist. All its assets, projects and staff were transferred into a newly created Office of Disability Employment Policy (ODEP) of the U.S. Department of Labor.

The High School/High Tech Program Support component of this grant will provide the following:

1. Conduct research for all manner of appropriate funding resources/possibilities (e.g., businesses, foundations, local, state, and federal government sources, especially WIA-assisted programs); maintain a data base on the results of this research; and disseminate information to current and prospective HS/HT program sites (e.g., periodic fact sheets, web based listings).

2. Review current HS/HT programs for successful funding strategies and document and disseminate them; work with a minimum of 25–30 HS/HT sites during the grant year to identify potential grant funding services that are appropriate to each programs circumstances, with an emphasis on WIA funding possibilities; and develop 10–12 profiles of successful HS/HT fund raising activities;

3. Deliver technical assistance support on the HS/HT program to current and prospective sites and sponsors, including information on the program's goals, core values, start-up strategies, program components, materials, etc. These sites will be identified to the grantee by the HS/HT program manager;

4. Deliver technical assistance which helps create a partnership between HS/HT program sites and with local WIA programs;

5. Prepare and maintain existing annual monitoring and reporting of the HS/HT programs nationwide; and,

6. Advise HS/HT grantees on the type of project data they need to collect in order to assess the effectiveness of their project.

[4] For more information on the High School/High Tech program visit: *http://www50.pcepd.gov/pcepd/pubs/hsht00/toc.htm.*

Other Requirements

All applicants for the WIA Disability Technical Assistance Consortium for Youth are required to submit a Management Plan. The Plan must identify the overall organizational design including its functional structure. The Plan must identify key staff members of the Technical Assistance Consortium (including subcontractors) and indicate time commitments for each. Consultants must be identified and resumes included in the Appendix. The Management Plan shall also include a system that provides for evaluation and feedback. This system shall include the methodology by which information will be gathered and continuous improvements achieved. The Management Plan must also document any ''ramping-up'' of project activities over the project implementation period and provide planned time lines for project activities.

DOL will arrange for an independent evaluation of outcomes, impacts, and benefits of the grants. Grantees must make records available to evaluation personnel, as specified by the Department. Grantees funded under this SGA must make positive efforts to employ and advance in employment qualified individuals with disabilities within project activities.

Applicants and grant recipients funded under this SGA shall involve members of four specific groups in implementation of the grant(s):

1. Youth and adults with disabilities;
2. Relevant experts in the field of disability (such as disability organizations, researchers, family members and organizations, independent living centers, or service providers);
3. Employers; and
4. Policymakers.

Throughout the course of the project, grantees must collaborate with other research institutes, centers, and studies and evaluations, that are supported by DOL and other relevant Federal agencies. Applicant (and all consortia partners) shall document their organization's commitment to the objectives of the project.

VI. Funding Availability

The initial period of performance will be 12 months from the date of execution by the Government. Based on availability of funds, project performance, and needs, the Department may elect to exercise its option to extend these grants for up to four additional option years for a total not to exceed 60 months. With the agreement of the grantee, the Department also may elect to change, modify and/or supplement these grants during this period based on Department's needs. The funding for these grants is as follows:

Technical Assistance Consortium for Adults with Disabilities: up to $1,200,000

Technical Assistance Consortium for Youth with Disabilities: up to $1,450,000

with $450,000 of the total Youth funding allocated for High School/High Tech Program Management Support outlined above.

VII. Eligible Applicants

Eligible applicants may be a public/private non-profit or for-profit organization or consortia, including faith-based organizations with demonstrated appropriate experience and expertise. If the proposal includes multiple consortia members, there must be a prime or lead member who is the responsible fiscal agent.

All applications must clearly identify the lead grant recipient and fiscal agent, as well as all other members of the Consortium applying for the grant. In addition, the application must identify the relationship between all of the members of the consortia. The application must identify who the grant/lead recipient (and/or fiscal agent) is and both identify and describe its capacity to administer this project.

PLEASE NOTE THAT ELIGIBLE GRANT/COOPERATIVE AGREEMENT APPLICANTS MUST NOT BE CLASSIFIED UNDER THE INTERNAL REVENUE CODE AS A 501(c)(4) ENTITY. See 26 U.S.C. 506(c)(4). According to Section 18 of the Lobbying Disclosure Act of 1995, an organization, as described in Section 501(c)(4) of the Internal Revenue Code of 1986, that engages in lobbying activities will not be eligible for the receipt of federal funds constituting an award, grant, or loan.

VIII. Application Contents

There are four required sections of the application. Requirements for each section are provided in this application package. Applicants must submit a signed original and three copies of the application. Be sure to indicate on the title page whether your organization is applying for the WIA Disability Technical Assistance Consortium for Adults (Section IV, Option 1, above); or, the WIA Disability Technical Assistance Consortium for Youth (Section V, Option 2, above).

1. Project Narrative

Applicants shall include a narrative that addresses the evaluation criteria in Section IX that will be used by the Technical Evaluation Committee in evaluating individual proposals.

The Project Narrative must be double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, and captions, as well as all text in charts, tables, figures, and graphs is limited to no more than 70 pages. A page is 8.5″ × 11″ (on one side only) with one-inch margins (top, bottom, and sides). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a non-proportional font or a typewriter, do not use more than 12 characters per inch.

2. Executive Summary

The Executive summary should be no more than 2 single spaced pages in length giving a clear summary of the project narrative.

3. Management Plan

The Management Plan should be no more than 10 double spaced pages in length and formatted as required in the Project Narrative.

4. Project Financial Plan

To be considered. applications must include a detailed financial plan which identifies by line item the budget plan designed to achieve the goals of this grant. The Financial Proposal must contain the SF–424, Application for Federal Assistance, (Appendix A) and Budget Information Sheet SF–424A (Appendix B).

In addition, the budget must include on a separate page a detailed cost analysis of each line item. Justification for administrative costs must be provided. Approval of a budget by DOL is not the same as the approval of actual costs. The individual signing the SF–424 on behalf of the applicant must represent the responsible financial and administrative entity for a grant should that application result in an award.

IX. Evaluation Criteria/Selection

A. Evaluation Criteria

The Project Narrative and the Management Plan in Part VIII must address the following evaluation criteria.

1. Significance of the Proposed Project (15 Points)

In evaluating the significance of the proposed project, the Department will consider the following factors:

a. The national significance of the proposed project;

b. The proposed project's potential contribution of to increase knowledge or understanding of problems, issues, or effective strategies for WIA programs in serving the target population, including identification of various policy strategies for furthering employment of people with disabilities through the workforce investment system;

c. The extent to which the proposed project is likely to yield findings that may be used by other appropriate agencies and organizations;

d. The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies;

e. The likely utility of the information, materials, processes, or techniques that will result from the proposed project, including the potential for their effective use in a variety of other settings;

f. The extent to which the results of the proposed project are to be disseminated in ways that will enable others to use the information or strategies; and

g. The importance or magnitude of the results or outcomes likely to be attained by the proposed project.

2. Quality of the Project Design (25 Points)

In evaluating the quality of the proposed project design, the Department will consider the following factors:

a. The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

b. The extent to which the design of the proposed project includes a high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives;

c. The extent to which the design of the proposed project reflects up-to-date policy and program knowledge from research and effective practice for technical assistance, training, policy analysis, and information;

d. The extent to which the proposed project will be coordinated with similar or related Federal technical assistance, research, training, and information efforts;

e. The extent to which the proposed project encourages involvement of people with disabilities, relevant experts, and organizations; and

f. The extent to which performance feedback and continuous improvement are integral to the design of the proposed project.

3. Quality of Project Personnel (20 Points)

In evaluating the quality of project personnel, the Department will consider the applicants plan to encourage applications for employment from persons who are members of groups that have traditionally been under represented based on race, color, national origin, gender, age, or disability.

In addition, the Department will consider the following factors:

a. The qualifications, including relevant training and experience, of key project personnel; and,

b. The qualifications, including relevant training and experience, of project consultants or subcontractors.

4. Quality of the Project Evaluation (20 Points)

In evaluating the quality of project evaluation, the Department considers the following factors:

a. The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

b. The extent to which the methods of evaluation are appropriate to the context within which the project operates;

c. The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies;

d. The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible;

e. The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings; and

f. Methods for measuring, in both quantitative and qualitative terms, program results and satisfaction of recipients of technical assistance, training, information, or program management support services.

5. Quality of the Management Plan (10 Points)

In determining the quality of the management plan for the proposed project, the Department will consider the following factors:

a. The adequacy of the management plan to achieve the objectives of the SGA, including clearly defined responsibilities for accomplishing project tasks and time lines;

b. The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project;

c. The adequacy of mechanisms for ensuring high-quality materials and services from the proposed project;

d. The extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project; and

e. The method by which the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of adults and/or youths with disabilities, families, workforce development professionals, the business community, a variety of academic and professional fields, recipients or beneficiaries of services, or others, as appropriate.

6. Adequacy of Resources (10 Points)

In evaluating the adequacy of resources for the proposed project, the Department will consider the following factors:

a. The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization;

b. The relevance and demonstrated commitment of the lead applicant's organization (and all consortia partners) to the implementation and success of the project;

c. The extent to which the budget is adequate to support the proposed project; and,

d. The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

B. Selection Criteria

Except as specifically provided, DOL/ODEP acceptance of a proposal and an award of federal funds to sponsor any program(s) does not provide a waiver of any grant requirement and/or procedures. Grantees must comply with all applicable Federal statutes, regulations, administrative requirements and OMB Circulars. For example, the OMB circulars require, and an entity's procurement procedures must require that all procurement transaction shall be conducted, as practical, to provide open and free competition. If a proposal identifies a specific entity to provide the services, the DOL/ODEP's award does

not provide the justification or basis to sole-source the procurement, i.e., avoid competition.

A panel will objectively rate each complete application against the criteria described in this SGA. The panel recommendations to the Grant Officer are advisory in nature. The Grant Officer may elect to award grants either with or without discussion with the applicant. In situations where no discussion occurs, an award will be based on the signed SF 424 form (see Appendix A), which constitutes a binding offer. The Grant Officer may consider the availability of funds and any information that is available and will make final award decisions based on what is most advantageous to the Government, considering factors such as:

1. Any efficiencies or economies of scale caused by awarding both the adult and the youth grants to one bidder or consortia;

2. Findings of the grant technical evaluation panel;

3. Geographic distribution of the competitive applications; and,

4. The Project's Financial Plan.

X. Reporting

The grantee must furnish a typed technical report to ODEP on a quarterly basis by March 30, June 30, September 30, and December 31. It is estimated that the quarterly technical report will take 24 hours to complete. The grantee must also furnish a separate financial report to ODEP on the quarterly basis mentioned above. The format for the technical progress report must contain the following information on program activities:

1. Technical assistance, training, and information efforts to One-Stop Centers and others including grant programs.

2. Policy studies and analysis.

3. Information/expertise gathered and documented.

4. Linkages developed, partnerships formed, with other organizations and groups.

5. Customer satisfaction feedback on services provided.

6. HS/HT support provided (youth grant only).

XI. Administration Provisions

A. Administrative Standards and Provisions

Grantees are strongly encouraged to read these regulations before submitting a proposal. The grant awarded under this SGA shall be subject to the following:

29 CFR Part 95—Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, etc.

29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts, and Agreements.

29 CFR Part 97—Uniform Administrative Requirement for Grants and Cooperative Agreements to State and Local Governments.

B. Allowable Cost

Determinations of allowable costs shall be made in accordance with the following applicable Federal cost principles:

State and Local Government—OMB Circular A–87

Nonprofit Organizations—OMB Circular A–122

Profit-making Commercial Firms—48 CFR Part 31

Profit will not be considered an allowable cost in any case.

C. Grant Assurances

The applicant must include the attached assurances and certifications.

D. OMB Clearances

Offerers awarded a grant/cooperative agreement under this solicitation will be required to provide the supporting documentation needed to clear data collection instruments within the U.S. Department of Labor and the Office of Management and Budget under the Paperwork Reduction Act, as amended, if data collection activities under the grant/cooperative agreement require response from ten (10) or more members of the public. In this regard, the narrative for all projects should indicate the scope of planned data collection activity.

Signed at Washington, DC this 6th day of July, 2001.

Lawrence J. Kuss,

Grant Officer.

BILLING CODE 4510–23–P

Appendix A. Application for Federal Assistance, Form SF 424

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ **Construction** ☐ **Non-Construction** / Preapplication ☐ **Construction** ☐ **Non-Construction**		**3. DATE RECEIVED BY STATE**	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, State, and zip code):*	Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN):*

☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ **New** ☐ **Continuation** ☐ **Revision**

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify):*

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ — ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.):*

13. PROPOSED PROJECT		**14. CONGRESSIONAL DISTRICTS OF:**	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ 0.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: -- "New" means a new assistance award. -- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. -- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

Appendix B. Budget Information Sheet, Form SF 424A

INSTRUCTIONS FOR THE SF-424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1-4 Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in *Column* (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 - Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a-i - Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program

INSTRUCTIONS FOR THE SF-424A (continued)

narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$ 0.00
2.						0.00
3.						0.00
4.						0.00
5. Totals		$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$ 0.00
b. Fringe Benefits					0.00
c. Travel					0.00
d. Equipment					0.00
e. Supplies					0.00
f. Contractual					0.00
g. Construction					0.00
h. Other					0.00
i. Total Direct Charges *(sum of 6a-6h)*	0.00	0.00	0.00	0.00	0.00
j. Indirect Charges					0.00
k. TOTALS *(sum of 6i and 6j)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00
7. Program Income	$	$	$	$	$ 0.00

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

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SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$ 0.00
9.				0.00
10.				0.00
11.				0.00
12. TOTAL *(sum of lines 8-11)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$ 0.00	$	$	$	$
14. Non-Federal	0.00				
15. TOTAL *(sum of lines 13 and 14)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Appendix C. Assurances and Certifications Signature Page

ASSURANCES AND CERTIFICATIONS - SIGNATURE PAGE

The Department of Labor will not award a grant or agreement where the grantee/recipient has failed to accept the ASSURANCES AND CERTIFICATIONS contained in this section. By signing and returning this signature page, the grantee/recipient is providing the certifications set forth below:

A. Assurances - Non-Construction Programs

B. Certifications Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters and Drug-Free/Tobacco-Free Workplace Requirements.

C. Certification of Release of Information

APPLICANT NAME and LEGAL ADDRESS:

If there is any reason why one of the assurances or certifications listed cannot be signed, please explain. Applicant need only submit and return this signature page with the grant application. All other instructions shall be kept on file by the applicant.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL TITLE

APPLICANT ORGANIZATION DATE SUBMITTED

Please Note: This signature page and any pertinent attachments which may be required by these assurances and certifications shall be attached to the applicant's Cost Proposal.

[FR Doc. 01–17410 Filed 7–10–01; 8:45 am]
BILLING CODE 4510–23–C

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of June, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility

requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–38,502; Republic Technologies International, Baltimore, MD.
TA–W–39,068; Elizabeth Webbing, Inc., Central Falls, RI.
TA–W–39,348; A and A Logging, Inc., Mt. Hood, OR.
TA–W–39,121; Titan Tires of Natchez, Natchez, MS.

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,045; Longview Aluminum LLC, Longview, WA.
TA–W–38,462; Pangborn Corp., Hagerstown, MD.
TA–W–39,315; The Boeing Co., Ridley, PA.
TA–W–38,692; Isaacson and Kater Button Co., Cleveland, OH.
TA–W–38,973; Robinson Fiddler's Green Manufacturing Co., Inc., Springville, NY.
TA–W–38,753; Amphenol Corp., Amphenol Aerspace Operation, Sidney, NY.

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for

TA–W–39,294; Newmont Mining Corp., Carlin, NV.
TA–W–39,096; GMW Logging, Inc., Central Point, OR.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,078; Agilent Technologies, Inc., Electronic Products and Solutions Group, New Jersey Order Fulfillment, Including Leased Workers of Adecco, Rockaway, NJ; April 5, 2000.
TA–W–38,825; Thermal Corp., Selmer, TN: 2/21/2000.
TA–W–39,167; Maurice Silvera, Inc., Lumberton, NC: April 25, 2000.
TA–W–39,173; DJ Summers, New York, NY: April 23, 2000.
TA–W–39,393; UCAR Carbon Co., Inc., Columbia, TN: February 4, 2001.
TA–W–39,087; John Roberts, Inc., New York, NY: April 3, 2000.
TA–W–39,182 & A; The JPM Co., Lewisburg, PA and Beaver Springs, PA: April 12, 2000.
TA–W–38,963 & A; Ridgeview, Inc., Newton, NC and Tri-Star Hosiery Mills, Inc., Mebane, NC: March 21, 2000.
TA–W–39,041; Rawlings Sporting Goods Co., Inc., Ava, MO: April 2, 2000.
TA–W–39,228; Emerson Power Transmission, Bearing Div., Valparaiso, IN: April 26, 2000.
TA–W–39,286 & A, B; M. Fine and Sons Manufacturing Co., Inc., Middlesboro, KY, Loretto, TN and Greenhill, AL: May 3, 2000.
TA–W–39,339 & A, B; M. Fine and Sons Manufacturing Co., Inc., New York, NY, Louisville, KY and Dalton, GA: May 3, 2000.
TA–W–39,412 & A; M. Fine and Sons Manufacturing Co., Inc., New Albany, IN and Jeffersonville, IN: May 3, 2000.
TA–W–38,742; Munro and Co., Inc., Monett Footwear, Monett, MO: February 14, 2000.
TA–W–39,288; Heartland Wheat Growers LP, Russell, KS: May 4, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of June, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–04816; Lady Hope Dress, Kulpmont, PA.
NAFTA–TAA–04614; Sandhills Printing and Finishing, Inc., Sanford, NC.
NAFTA–TAA–04583; Munro and Co., Inc., Monett Footwear, Monett, MO.
NAFTA–TAA–04812; Cemex Kosmos Cement Co., Pittsburgh Plant, Pittsburgh, PA.
NAFTA–TAA–04976; Eaton Corp., Heavy Duty Transmission Div., Shenandoah, IA.
NAFTA–TAA–04397; Ralph Daniel Stearns Family Farm, Siskiyou, CA.
NAFTA–TAA–04590; Thermal Corp., Selmer, TN.
NAFTA–TAA–04551; Westpoint Stevens, Inc., Rosemary Plants, Roanoke Rapids, NC.
NAFTA–TAA–04849; Thomas and Betts, LRC, Horseheads, NY.
NAFTA–TAA–04570; Amphenol Corp., Amphenol Aerospace Operations, Sidney, NY.

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

NAFTA–TAA–04957; Nortel Networks, Simi Valley, CA:

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–04377; Editorial America, Virginia Gardens, FL: November 28, 1999.

NAFTA–TAA–04786; Rubber Urethanes, Inc., Gainesville, TX: April 6, 2000.

NAFTA–TAA–04865; Portable Energy Productions, Inc., Scotts Valley, CA: April 30, 2000.

NAFTA–TAA–04944; Santtony Wear, Knitting Department, Rockingham, NC: May 29, 2000.

NAFTA–TAA–04811; Emerson Power Transmission, Bearing Div., Valparaiso, IN: April 20, 2000.

NAFTA–TAA–04813; Tycom Corp., Owego, NY: April 5, 2000.

NAFTA–TAA–04950; UCAR Carbon Company, Inc., Columbia, TN: May 15, 2000.

NAFTA–TAA–04968; Thomson Multimedia, Inc., ATO Div., Dunmore, PA: May 31, 2000.

NAFTA–TAA–04556; Equistar Chemical LP, Port Arthur, TX: June 11, 2001.

NAFTA–TAA–04845 & A, B, C, D, E, F and G; M. Fine and Sons Manufacturing Co., Inc., Middlesboro, KY, Loretta, TN, Dalton, GA, New Albany, IN, Greenhill, AL, Jeffersonville, IN, Louisville, KY and New York, NY: May 2, 2000.

NAFTA–TAA–04703 & A; Lebanon Apparel Corp., Lebanon, VA and Three Creek Apparel, Castle Wood, VA: March 28, 2000.

NAFTA–TAA–04901; Carolina Mills, Inc., Plant #5, Lincolnton, NC: May 10, 2000.

NAFTA–TAA–04695 & A; Ridgeview, Inc., Leisure Sock Div., Newton, NC and Tri-Star Hosiery Mills, Inc., Mebane, NC: March 21, 2000.

NAFTA–TAA–04821 & A; Nokia, Inc., Nokia Mobile Phones, Alliance Gateway and Temporary Workers of Remedy Intelligent Staffing, Fort Worth, TX and Nokia, Inc. Nokia Mobile Phones, Trinity Boulevard and Temporary Workers of Remedy Intelligent Staffing, Fort Worth, TX: April 21, 2000.

I hereby certify that the aforementioned determinations were issued during the month of June, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who wrote to the above address.

Dated: June 29, 2001.

Curtis K. Kooser,

Acting Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–17360 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,074]

Chief Wenatchee, Inc.; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 23, 2001, in response to a worker petition filed by a company official on behalf of workers at Chief Wenatchee, Inc., Wenatchee, Washington.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of June, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–17356 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,442; et al.]

CMI Industries, Inc.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on April 13, 2001, applicable to workers of CMI Industries, Inc., Clinton Fabric Division, Clinton, South Carolina. The notice was published in the **Federal Register** on May 2, 2001 (66 FR 22007).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of griege woven fabric. New information shows that some workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Defender Services, Inc.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of CMI Industries, Inc. who were adversely affected by increased imports of griege woven fabric.

The amended notice applicable to TA–W–38,442 is hereby issued as follows:

All workers of CMI Industries, Inc., Clinton Fabric Division, Defender Services, Inc., Clinton, South Carolina (TA–W–38,442), Bailey Plant, Clinton, South Carolina (TA–W–38,442A), Vance Complex, Clinton, South Carolina (TA–W–38,442B) and Administrative Office, Clinton, South Carolina (TA–W–38,442C) who became totally or partially separated from employment on or after December 4, 1999 through April 13, 2003 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 29th day of June, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–17361 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,987]

Hobman Corporation Jim Thorpe, Pennsylvania; Notice of Revised Determination on Reconsideration

On February 6, 2001, the Department accepted a request from petitioners for reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance applicable to workers of the subject firm. The notice was published in the **Federal Register** on February 20, 2001 (66 FR 10918).

The initial investigation resulted in a negative determination because the ''contributed importantly'' test of the Group Eligibility Requirements of the Trade Act was not met for workers at the subject firm. The workers at Hobman Corporation in Jim Thorpe, Pennsylvania, produced model train transformers and plastics. The denial notice was published in the **Federal Register** on November 16, 2000 (65 FR 69342).

On reconsideration, the Department obtained new information from the

company regarding the production at the subject firm plant. Although the subject firm sales consisted of model train transformers and plastics, workers at the plant produced power packs during the time relevant to the investigation. New findings of the investigation show that from 1998 to 1999, the subject firm increased imports of power packs and plastics. The Hobman Corporation, Jim Thorpe, Pennsylvania plant closed in September 2000, and the production was transferred to another U.S. facility.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with the articles produced by the subject firm contributed importantly to the decline in sales or production and to the total or partial separation of workers of Hobman Corporation, Jim Thorpe, Pennsylvania. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers at Hobman Corporation, Jim Thorpe, Pennsylvania, who became totally or partially separated from employment on or after August 10, 1999, through two years from the date of certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 25th day of June 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–17362 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,717; TA–W–38,717A]

International Paper (Castigan Mill; Passadumkeag Mill); Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of May 10, 2001, counsel on behalf of the company, requests administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of the subject firm plants. The denial notice was signed on March 13, 2001, and was published in the **Federal Register** on April 16, 2001 (66 FR 19520).

The company presents new information regarding U.S. imports of stud trade lumber.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC this 25th day of June, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–17352 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,430]

Jacmel Jewelry; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 13, 2001, in response to a petition filed on behalf of workers at Jacmel Jewelry, New York, New York.

The petition was signed by one individual who was later found not to be an official in either the union or company. Therefore the petition is invalid and no further investigation is warranted. Therefore, the petition investigation is terminated.

Signed in Washington, DC this 29th day of June, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–17357 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,656]

The JPM Company; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 9, 2001, applicable to workers of The JPM Company, San Jose, California. The notice was published in the **Federal Register** on May 2, 2001 (66 FR 22006).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of various wire harnesses and cable assemblies. Information received from the State shows that The JPM Company merged with Denron, Inc. in 1996. Information also shows that some workers separated from employment at The JPM Company had their wages reported under a separate unemployment insurance (UI) tax account for Denron, Inc.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of The JPM Company, San Jose, California who were adversely affected by increased imports of wire harnesses and cable assemblies.

The amended notice applicable to TA–W–38,656 is hereby issued as follows:

All workers of The JPM Company, Denron, Inc., San Jose, California who became totally or partially separated from employment on or after January 28, 2000 through April 9, 2003 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 29th day of June, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–17358 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,342]

The Kelly Springfield Tire Co., Tyler, Texas; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 29, 2001, in response to a petition filed on behalf of workers at The Kelly Springfield Tire Company, Division of Goodyear Tire and Rubber Company, Tyler, Texas.

The company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of June, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–17355 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,470]

Plum Creek Timber, Pablo, Montana; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of May 18, 2001, the company requests administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of the subject firm. The denial notice was signed on March 13, 2001, and was published in the **Federal Register** on May 9, 2001 (66 FR 23733).

The company provides evidence that further survey is warranted regarding customer purchases of softwood lumber.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C. this 25th day of June, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–17359 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,380]

Rexam Medical Packaging, Mt. Holly, New Jersey; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Rexam Medical Packaging, Mt. Holly, New Jersey. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–38,380; Rexam Medical Packaging, Mt. Holly, New Jersey (June 27, 2001)

Signed at Washington, DC this 28th day of June, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–17351 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04510]

The JPM Co.; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with section 250(A), subchapter D, chapter 2, title II, of the Trade Act of 1974 (19 USC 2273), the Department of Labor issued a certification for NAFTA Transitional Adjustment Assistance on April 6, 2001, applicable to workers of The JPM Company, San Jose, California. The notice was published in the **Federal Register** on May 2, 2001 (66 FR 22008).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of wire harnesses and cable assemblies. New information received from the company shows that The JPM Company merged with Denron, Inc. in 1996. Information also shows that workers separated from employment at The JPM Company had their wages reported under a separate unemployment insurance (UI) tax account for Denron, Inc.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of The JPM Company, San Jose, California who were adversely affected by a shift of production of wire harnesses and cable assemblies to Mexico. The amended notice applicable to NAFTA–04510 is hereby issued as follows:

All workers of The JPM Company, Denron, Inc., San Jose, California who became totally or partially separated from employment on or after January 23, 2000 through April 6, 2001 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 29th day of June, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–17354 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04335]

Mediacopy (Formerly West Coast Duplicating, Inc.); Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with section 250(A), subchapter D, chapter 2, title II, of the Trade Act of 1974 (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on December 20, 2000, applicable to workers of Mediacopy located in San Leandro, California. The notice was published in the **Federal Register** on January 11, 2001 (66 FR 2451).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of duplication of movies on videocassettes. New information received from the company shows that workers separated from employment at Mediacopy had their wages reported under a separate unemployment insurance (UI) tax account for West Coast Duplicating, Inc., the subject firms' previous title name.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Mediacopy who were adversely affected by the shift of production to Mexico.

The amended notice applicable to NAFTA–04335 is hereby issued as follows:

All workers of Mediacopy, formerly West Coast Duplicating, Inc., San Leandro, California who became totally or partially separated from employment on or after November 21, 1999 through December 20, 2002 are eligible to apply for NAFTA–TAA under section 250 of the Trade Act of 1974.

Signed at Washington, DC this 29th day of June, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–17353 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL1–88]

MET Laboratories, Inc., Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the application of MET Laboratories, Inc., for expansion of its recognition as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7, and presents the Agency's preliminary finding. This preliminary finding does not constitute an interim or temporary approval of the application.

DATES: Comments submitted by interested parties, or any request for extension of the time to comment, must be received no later than July 26, 2001.

ADDRESSES: Submit written comments concerning this notice to: Docket Office, Docket NRTL1–88, U.S. Department of Labor, Occupational Safety and Health Administration, Room N2625, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648. Submit request for extensions concerning this notice to: Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3653, 200 Constitution Avenue, NW, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program, Room N3653 at the above address, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Application

The Occupational Safety and Health Administration (OSHA) hereby gives notice that MET Laboratories, Inc. (MET), has applied for expansion of its current recognition as a Nationally Recognized Testing Laboratory (NRTL). MET's expansion request covers the use of additional test standards.

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, OSHA can accept products ''properly certified'' by the NRTL.

The Agency processes applications by an NRTL for initial recognition or for expansion or renewal of this recognition following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on an application. These notices set forth the NRTL's scope of recognition or modifications of this scope. MET's current scope of recognition may be found in OSHA's informational web page for the NRTL (*http://www.osha-slc.gov/dts/otpca/nrtl/met.html*).

The most recent notices published by OSHA for MET's recognition covered an expansion for additional standards, which OSHA announced on November 10, 1998 (63 FR 63085) and granted on March 9, 1999 (64 FR 11502).

The current address of the MET testing facility already recognized by OSHA is: MET Laboratories, Inc., 914 West Patapsco Avenue, Baltimore, Maryland 21230.

General Background on the Application

MET has submitted a request, dated January 16, 2001 (see Exhibit 24), to expand its recognition as an NRTL for additional test standards. The NRTL Program staff has determined that all the standards requested are ''appropriate test standards,'' within the meaning of 29 CFR 1910.7(c). The staff makes such determinations in processing expansion requests from any NRTL.

OSHA recognition of any NRTL for a particular test standard is limited to equipment or materials (i.e., products) for which OSHA standards require third party testing and certification before use in the workplace. Consequently, an NRTL's scope of recognition excludes any product(s) falling within the scope of the test standard for which OSHA has no testing and certification requirements. MET seeks recognition for testing and certification of products to demonstrate compliance with the following 32 standards.

UL 45 Portable Electric Tools
UL 506 Specialty Transformers
UL 745–1 Portable Electric Tools
UL 745–2–1 Particular Requirements of Drills
UL 745–2–2 Particular Requirements for Screwdrivers and Impact Wrenches
UL 745–2–3 Particular Requirements for Grinders, Polishers, and Disk-Type Sanders
UL 745–2–4 Particular Requirements for Sanders
UL 745–2–5 Particular Requirements for Circular Saws and Circular Knives
UL 745–2–6 Particular Requirements for Hammers
UL 745–2–8 Particular Requirements for Shears and Nibblers
UL 745–2–9 Particular Requirements for Tappers
UL 745–2–11 Particular Requirements for Reciprocating Saws
UL 745–2–12 Particular Requirements for Concrete Vibrators
UL 745–2–14 Particular Requirements for Planers
UL 745–2–17 Particular Requirements for Routers and Trimmers
UL 745–2–30 Particular Requirements for Staplers
UL 745–2–31 Particular Requirements for Diamond Core Drills
UL 745–2–32 Particular Requirements for Magnetic Drill Presses
UL 745–2–33 Particular Requirements for Portable Bandsaws
UL 745–2–34 Particular Requirements for Strapping Tools
UL 745–2–35 Particular Requirements for Drain Cleaners
UL 745–2–36 Particular Requirements for Hand Motor Tools
UL 745–2–37 Particular Requirements for Plate Jointers
UL 935 Fluorescent-Lamp Ballasts
UL 1026 Electric Household Cooking and Food Serving Appliances
UL 1028 Hair Clipping and Shaving Appliances
UL 1083 Household Electric Skillets and Frying-Type Appliances
UL 1236 Battery Chargers for Charging Engine-Starter Batteries
UL 1431 Personal Hygiene and Health Care Appliances
UL 1585 Class 2 and Class 3 Transformers
UL 1786 Nightlights
UL 1993 Self-Ballasted Lamps and Lamp Adapters

The designations and titles of the above test standards were current at the time of the preparation of this notice.

Many of the Underwriters Laboratories (UL) test standards listed in this notice are also approved as American National Standards by the

American National Standards Institute (ANSI). However, for convenience in compiling the lists, we use the designation of the standard developing organization (e.g., UL 1028) for the standard, as opposed to the ANSI designation (e.g., ANSI/UL 1028). Under our procedures, an NRTL recognized for an ANSI-approved test standard may use either the latest proprietary version of the test standard or the latest ANSI version of that standard, regardless of whether it is currently recognized for the proprietary or ANSI version. Contact ANSI or the ANSI web site (http://www.ansi.org) and click ''NSSN'' to find out whether or not a test standard is currently ANSI-approved.

Preliminary Finding on the Application

MET has submitted an acceptable request for expansion of its recognition as an NRTL. In connection with this request, OSHA did not perform an on-site review of MET's NRTL testing facilities. However, NRTL Program assessment staff reviewed information pertinent to the request and recommended that MET's recognition be expanded to include the additional test standards listed above (see Exhibit 25).

Following a review of the application file, the assessor's recommendation, and other pertinent documents, the NRTL Program staff has concluded that OSHA should grant to MET the expansion of recognition as an NRTL to use the additional test standards listed above. The staff, therefore, recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon the recommendations of the staff, the Agency has made a preliminary finding that the MET Laboratories, Inc., can meet the requirements, as prescribed by 29 CFR 1910.7, for the expansion of recognition. This preliminary finding does not constitute an interim or temporary approval of the application.

OSHA welcomes public comments, in sufficient detail, as to whether MET has met the requirements of 29 CFR 1910.7 for expansion of its recognition as a Nationally Recognized Testing Laboratory. Your comment should consist of pertinent written documents and exhibits. To consider it, OSHA must receive the comment at the address provided above (see **ADDRESSES**) no later than the last date for comments (see **DATES** above). Should you need more time to comment, OSHA must receive your written request for extension at the address provided above (also see **ADDRESSES**) no later than the last date for comments (also see **DATES** above). You must include your reason(s) for any request for extension. OSHA will limit an extension to 15 days unless the requester justifies a longer period. We may deny a request for extension if it is frivolous or otherwise unwarranted. You may obtain or review copies of MET's request, the recommendation on the expansion, and all submitted comments, as received, by contacting the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. You should refer to Docket No. NRTL–1–88, the permanent record of public information on MET's recognition.

The NRTL Program staff will review all timely comments, and after resolution of issues raised by these comments, will recommend whether to grant MET's expansion request. The Agency will make the final decision on granting the expansion, and in making this decision, may undertake other proceedings that are prescribed in Appendix A to 29 CFR Section 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

Signed at Washington, D.C. this 25th day of June , 2001.

R. Davis Layne,

Acting Assistant Secretary.

[FR Doc. 01–17402 Filed 7–10–01; 8:45 am]

BILLING CODE 4510–26–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

July 5, 2001.

TIME AND DATE: 10:00 a.m., Thursday, July 19, 2001.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Alcoa Alumina & Chemical, LLC, Docket No. CENT 2000–101–M (Issues include whether a milling operation is a surface mine for purposes of 30 C.F.R. Part 48, subpart B).

Any person attending an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 C.F.R. 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 01–17445 Filed 7–9–01; 1:02 pm]

BILLING CODE 6735–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–086)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Bluebox Communications, Inc., of San Jose, CA has applied for an exclusive license to practice the invention disclosed in U.S. Patent No. 5,774,669, entitled ''Scalable Hierarchical Network Management System for Displaying Network Information in Three Dimensions,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Ames Research Center.

DATES: Responses to this notice must be received by September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Padilla, Patent Counsel, NASA Ames Research Center, Mail Stop 202A–3, Moffett Field, CA 94035–1000, telephone (650) 604–5104.

Dated: July 2, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–17293 Filed 7–10–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–085)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license

SUMMARY: NASA hereby gives notice that Simplylook.com, Inc., of San Jose, CA has applied for an exclusive license to practice the invention disclosed in U.S. Patent No. 5,426,512, entitled ''Optimized Image Compression (DCTune),'' which is assigned to the

United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Ames Research Center.

DATES: Responses to this notice must be received by September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Padilla, Patent Counsel, NASA Ames Research Center, Mail Stop 202A–3, Moffett Field, CA 94035–1000, telephone (650) 604–5104.

Dated: July 2, 2001.

Edward A. Frankle,

General Counsel

[FR Doc. 01–17292 Filed 7–10–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–187]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Wessex, Inc., of Blacksburg, VA has applied for an exclusive license to practice the invention disclosed in U.S. Patent No. 5,269,288, entitled ''Protective Coating for Ceramic Materials,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Ames Research Center.

DATES: Responses to this notice must be received by September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Padilla, Patent Counsel, NASA Ames Research Center, Mail Stop 202A–3, Moffett Field, CA 94035–1000, telephone (650) 604–5104.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–17294 Filed 7–10–01; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of July 9, 16, 23, 30, August 6, 13, 2001.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of July 9, 2001

There are no meetings scheduled for the Week of July 9, 2001.

Week of July 16, 2001—Tentative

Thursday, July 19, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (If needed)

9:30 a.m.—Briefing on Results of Agency Action Review Meeting—Reactors (Public Meeting) (Contact: Ron Frahm, 301–415–2986)

1:30 p.m.—Briefing on Readiness for New Plant Applications and Construction (Public Meeting) (Contact: Nanette Gilles, 301–415–1180)

Friday, July 20, 2001

9:30 a.m.—Briefing on Results of Reactor Oversight Process Initial Implementation (Public Meeting) (Contact: Tim Frye, 301–415–1287)

1:00 p.m.—Briefing on Risk-Informing Special Treatment Requirements (Public Meeting) (Contact: John Nakoski, 301–415–1278)

Week of July 23, 2001—Tentative

There are no meetings scheduled for the Week of July 23, 2001.

Week of July 30, 2001—Tentative

Tuesday, July 31, 2001

1:25 p.m.—Affirmation Session (Public Meeting) (If needed)

Week of August 6, 2001—Tentative

There are no meetings scheduled for the Week of August 6, 2001.

Week of August 13, 2001—Tentative

Tuesday, August 14, 2001

9:30 a.m.—Briefing on NRC International Activities (Public Meeting) (Contact: Elizabeth Doroshuk, 301–415–2775)

Wednesday, August 15, 2001

9:30 a.m.—Briefing on EEO Program (Public Meeting) (Contact: Irene Little, 301–415–7380)

1:25 p.m.—Affirmation Session (Public Meeting) (If needed)

1:30 p.m.—Meeting with Organization of Agreement States (OAS) and Conference of Radiation Control Program Directors (CRCPD) (Public Meeting (Contact: John Zabko, 301–415–1277)

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an elecontric message to dkw@nrc.gov.

Dated: July 5, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–17446 Filed 7–9–01; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from June 18, 2001 through June 29, 2001. The last biweekly notice was published on June 27, 2001.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By August 10, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission,

Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Branch, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Assess and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document room (PDR) Reference staff at 1–800–397–4209, 304–415–4737 or by email to pdr@nrc.gov.

AmerGen Energy Company, LLC, Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Date of amendment request: May 31, 2001.

Description of amendment request: The proposed amendment would revise the Technical Specifications to incorporate Cycle 14 specific limits for the variable low reactor coolant system pressure-temperature core protection safety limits. The proposed limits are developed in accordance with the methods described in NRC (Nuclear Regulatory Commission)-approved Topical Report BAW–10179P–A, ''Safety Criteria and Methodology for Acceptable Cycle Reload Analyses.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification limits (Figure 2.1–1) are developed in accordance with the methods and assumptions described in NRC-approved Framatome ANP Topical Report BAW–10179P–A, ''Safety Criteria and Methodology for Acceptable Cycle Reload Analyses.''

These limits remain bounded by the existing reactor protection system (RPS) trip setpoints. The TMI Unit 1 Cycle 14 core introduces the Framatome ANP Mark–B12 fuel design. The Mark–B12 fuel design is mechanically and hydraulically similar to fuel designs currently in use at TMI Unit 1. While the designs are hydraulically similar, the Mark–B12 contains a fine mesh debris filter that alters the flow characteristics at the core inlet relative to the resident fuel designs resulting in the identification of a transition core DNB [departure from nucleate boiling] penalty. The higher minimum RCS flow requirement (105.5%) applied to offset the transition core DNB penalty is bounded by the minimum RCS flow assumed in current Updated Final Safety Analyis Report (UFSAR) Chapter 14 accident analyses (102%).

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Technical Specification limits (Figure 2.1–1) provide core protection safety limits developed in accordance with NRC-approved methods and assumptions. The revised Technical Specifications limits remain bounded by the existing reactor protection trip setpoints. The TMI Unit 1 Cycle 14 core introduces the Framatome ANP Mark–B12 fuel design. The Mark–B12 fuel design is mechanically and hydraulically similar to the fuel designs currently in use at TMI Unit 1. While the designs are hydraulically similar, the Mark–B12 contains a fine mesh debris filter that alters the flow characteristics at the core inlet relative to the resident fuel designs resulting in the identification of a transition core DNB penalty. The higher minimum reactor coolant system flow required for the transition cycles (105.5%) is within the current range of allowable operating flow rates since this value exceeds the minimum flow rate assumed for Chapter 14 accident analyses (102%) and is well below the maximum flow limit for fuel assembly lift which is typically approximately 115% of design flow (depending on fuel type and 4th reactor coolant pump startup temperature).

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The existing RPS reactor coolant pressure and temperature trip setpoints bound the proposed Technical Specification core protection safety limits. The proposed safety limits are developed in accordance with NRC-approved safety methods and assumptions. The higher minimum reactor coolant system flow requirement assures safe operation commensurate with the introduction of the Mark–B12 fuel design into the TMI Unit 1 core.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Edward J. Cullen, Jr., Esq., PECO Energy Company, 2301 Market Street, S23–1, Philadelphia, PA 19103.

NRC Section Chief: Richard P. Correia, Acting.

Dominion Nuclear Connecticut Inc., et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: March 2, 2001.

Description of amendment request: The proposed changes would modify Technical Specification (TS) 3.3.2, ''Instrumentation—Engineered Safety Features Actuation System Instrumentation.'' The Bases of the affected TS will also be modified to reflect this change. The proposed changes will extend the required surveillance interval for Potter & Brumfield MDR Series slave relays, which are installed in the Millstone Unit No. 3 Engineered Safety Features Actuation System, from a quarterly surveillance interval to an 18-month frequency surveillance interval for those relays that meet the reliability assessment criteria established by Westinghouse Electric Corporation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff's review is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

This change to the Technical Specifications does not result in a condition

where the design, material, and construction standards that were applicable prior to the change are altered. The same ESFAS instrumentation is being used and the same ESFAS system reliability is expected. The proposed change will not modify any system interface and could not increase the likelihood of an accident since these events are independent of this change. The proposed activity will not change, degrade or prevent actions or alter assumptions previously made in evaluating the radiological consequences of an accident described in the SAR [Safety Analysis Report]. Therefore, the proposed amendment does not result in any increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

This change does not alter the performance of the ESFAS [engineered safety features actuation system] mitigation systems assumed in the plant safety analysis. Changing the surveillance interval for periodically verifying ESFAS slave relays (assuring equipment operability) will not create any new accident initiators or scenarios. Implementation of the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

This change does not affect the total ESFAS system response assumed in the safety analysis. The periodic slave relay functional verification is relaxed because of the demonstrated high reliability of the relay and its insensitivity to any short term wear or aging effects. It is thus concluded that the proposed license amendment request does not result in a reduction in margin with respect to plant safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Nuclear Counsel, Dominion Nuclear Connecticut, Inc., Waterford, CT 06385.

NRC Section Chief: James W. Clifford.

Dominion Nuclear Connecticut Inc., et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: April 23, 2001.

Description of amendment request: The proposed changes would modify Technical Specification (TS) 3.1.2.1, ''Reactivity Control Systems—Boration Systems—Flow Path—Shutdown;'' 3.1.2.2, ''Reactivity Control Systems—Flow Paths—Operating;'' 3.1.2.3, ''Reactivity Control Systems—Charging Pump—Shutdown;'' 3.1.2.4, ''Reactivity Control Systems—Charging Pumps—Operating;'' 3.1.2.5, ''Reactivity Control Systems—Borated Water Source—Shutdown;'' 3.1.2.6, ''Reactivity Control Systems—Borated Water Sources—Operating;'' 3.4.1.2, ''Reactor Coolant System—Hot Standby;'' 3.4.1.3, ''Reactor Coolant System—Hot Shutdown;'' 3.4.1.4.1, ''Reactor Coolant System—Cold Shutdown—Loops Filled;'' 3.4.1.4.2, ''Reactor Coolant System—Cold Shutdown—Loops Not Filled;'' 3.4.1.6, ''Reactor Coolant System—Isolated Loop Startup;'' 3.4.2.1, ''Reactor Coolant System—Safety Valves—Shutdown;'' 3.4.2.2, ''Reactor Coolant System—Operating;'' 3.4.9.1, ''Reactor Coolant System—Pressure/Temperature Limits;'' and 3.4.9.3, ''Reactor Coolant System—Overpressure Protection Systems.'' The Index and the associated Bases for these Technical Specifications will be modified as a result of the proposed changes.

The above proposed TS changes will relocate the boration subsystem and Residual Heat Removal System over-pressurization protection requirements to a licensee-controlled document; modify the Reactor Coolant System (RCS) pressure/temperature limits; modify the Cold Overpressure Protection System (COPPS) set-point curves, COPPS enable temperatures and associated restrictions; modify the reactor vessel material surveillance withdrawal schedule; modify the pressurizer code safety valve requirements; modify the isolated RCS loop startup requirements; and provide numerous minor enhancements to the current requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's analysis, which is based on the representations made by the licensee in the April 23, 2001, application, is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes associated with the relocation of the boration subsystem requirements to a licensee-controlled document and with the revised reactor vessel analyses will not cause an accident to occur and will not result in any change in the operation of the associated accident mitigation equipment. Therefore, the proposed changes will not increase the probability or consequences of an accident previously evaluated.

The proposed TS changes associated with the relocation of the Mode 4 and Mode 5 plant restrictions associated with protection of the Residual Heat Removal System to a licensee-controlled document do not change the design-basis accidents of the same postulated events described in the Millstone Unit No. 3 Final Safety Analysis Report (FSAR). Therefore, the proposed changes will not increase the probability or consequences of an accident previously evaluated.

The proposed TS changes associated with the pressurizer code safety valves do not change the design-basis accidents described in the Millstone Unit No. 3 FSAR. Therefore, the proposed changes will not increase the probability or consequences of an accident previously evaluated.

The proposed TS changes to the Modes 5 and 6 restrictions associated with restoration of an isolated RCS loop do not change the design-basis accidents of the same postulated events described in the Millstone Unit No. 3 FSAR. Therefore, the proposed changes will not increase the probability or consequences of an accident previously evaluated.

The additional proposed changes to the TS that will standardize terminology, relocate information to the Bases, remove extraneous information, modify the requirements to prevent rod withdrawal for operational flexibility, and make minor format changes will not result in any technical changes to the current requirements. Therefore, these additional proposed changes will not increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the TSs do not impact any system or component that could cause an accident, nor will it alter the plant configuration or require any unusual operator actions, nor will it alter the way any structure, system, or component functions. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The revised analyses are based on American Society of Mechanical Engineers (ASME) Section XI Code Case N–640, which provides an alternate reference fracture toughness curve (K_{Ic}) for establishment of the beltline P/T limits. The analyses restrictions are less restrictive than those associated with the current analyses. However, the reduction in the margin of safety is small relative to the conservatism provided by ASME Section XI margins. Therefore, the proposed changes will not result in a significant reduction in a margin of safety.

The proposed TS changes associated with the relocation of the boration subsystem and RHR System overpressure protection requirements to a licensee-controlled document, pressurizer code safety valve

requirements, and isolated RCS loop startup will not result in a significant reduction in a margin of safety.

The additional proposed changes to the TSs that will standardize terminology, relocate information to the Bases, remove extraneous information, modify requirements to prevent rod withdrawal for operational flexibility, and make minor format changes will not result in any technical changes to the current requirements. Therefore, these additional changes will not result in a significant reduction in a margin of safety.

Based on the NRC staff's analysis, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Nuclear Counsel, Dominion Nuclear Connecticut, Inc., Waterford, CT 06385.

NRC Section Chief: James W. Clifford.

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina, Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: March 22, 2001.

Description of amendment request: The proposed amendments would revise the Catawba Nuclear Station (CNS) Unit 1 and Unit 2, and the McGuire Nuclear Station (MNS) Unit 1 and Unit 2 Technical Specifications (TS). The proposed TS revisions are presented in two parts. Part I affects the current MNS and CNS TS surveillance requirement (SR), and associated TS Bases for the methodology and frequency for the chemical analyses of the ice condenser ice bed (stored ice). The revision results in renumbering the SRs. Also, this proposed amendment adds a new TS SR to address sampling requirements for ice additions to the ice bed. Part II proposes revisions to the current MNS and CNS TS surveillance requirement (SR) acceptance criteria and surveillance frequency for the inspection of ice condenser ice basket flow channel areas. The proposed change also results in renumbering the SRs. Associated changes are also made to the TS Bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The Proposed Change Does Not Involve A Significant Increase In The Probability Or Consequences Of An Accident Previously Evaluated.

The only analyzed accidents of possible consideration in regards to changes potentially affecting the ice condenser are a loss of coolant accident (LOCA) and a High Energy Line Break (HELB) inside containment. However, the ice condenser is not postulated as being the initiator of any LOCA or HELB. This is because it is designed to remain functional following a design basis earthquake, and the ice condenser does not interconnect or interact with any systems that interconnect or interact with the Reactor Coolant or Main Steam Systems. The proposed changes to the TSs and associated TS Bases are solely to revise and provide clarification of the ice sampling and chemical analysis requirements, and flow area verification requirements. Since these proposed changes do not result in, or require, any physical change to the ice condenser, then there can be no change in the probability of an accident previously evaluated in the SAR.

In order for the consequences of any previously evaluated event to be changed, there would have to be a change in the ice condenser's physical operation during a LOCA or HELB, or in the chemical composition of the stored ice.

The proposed changes add an upper limit on boron concentration, which is the bounding value for the boron precipitation analysis. The upper limit boron concentration is an existing DBA analysis input limit that is controlled by existing procedure. Therefore, the addition of a TS requirement for an upper limit on boron concentration does not affect the physical operation or condition of the ice condenser.

Though the frequency of the existing surveillance requirement for sampling the stored ice is changed from once every 18 months to once every 54 months, the sampling requirements are strengthened overall with the requirement to obtain one randomly selected sample from each ice condenser bay (24 total samples) rather than nine ''representative'' samples, and the addition of a new surveillance requirement to verify each addition of ice meets the existing requirements for boron concentration and pH value.

The proposed changes clarify that each sample of stored ice is individually analyzed for boron concentration and pH, and that the acceptance criteria for each parameter is based on the average values obtained for the 24 samples. This is consistent with the bases for the boron concentration of the ice, which is to ensure the accident analysis assumptions for containment sump pH and boron concentration are not altered following complete melting of the ice condenser. Historically, chemical analysis of the stored ice has had a very limited number of instances where an individual sample did not meet the boron or pH requirements, with all subsequent evaluations (follow up sampling) showing the ice condenser as a whole was well within these requirements. Requiring chemical analysis of each sample is provided to preclude the practice of melting all samples together before performing the analysis, and to ensure the licensee is alerted to any localized anomalies for investigation and resolution without the burden of entering a 24 hour ACTION Condition, provided the averaged results are acceptable.

The proposed changes revise and clarify the flow area verification requirements. Regarding the consequences of analyzed accidents, the ice condenser is an engineered safety feature designed, in part, to limit the containment subcompartment and steel vessel pressures immediately following the initiation of a LOCA or HELB. Conservative sub-compartment pressure analysis shows this criteria will be met if the reduction in the flow area per bay provided for ice condenser air/steam flow paths is ≤15 percent, or if the total flow area blocked within each lumped analysis section is ≤15 percent as assumed in the safety analysis. The present 0.38 inch frost/ice buildup surveillance criteria only addresses the acceptability of any given flow path, and has no existing correlation between flow paths exceeding this criteria and percent of total flow path blockage. In fact, it was never the intent of the current surveillance requirement (SR) to make such a correlation. If problems were encountered in meeting the 0.38 inch criteria, it was expected that additional inspection and analysis, such as provided in the proposed amendment, would be performed to make such a determination. Thus, the proposed amendment for flow blockage determination provides the necessary assurance that flow path requirements are met without additional evaluations.

The proposed amendment also revises the flow area verification surveillance frequency from every 9 months to every 18 months such that it will coincide with refueling outages. Management of ice condenser maintenance activities has successfully limited activities with the potential for significant flow channel degradation to the refueling outage. By verifying an ice bed condition of less than or equal to 15% flow channel blockage following completion of these maintenance activities, the surveillance assures the ice bed is in an acceptable condition for the duration of the operating cycle. During the operating cycle, an expected amount of ice sublimates and reforms as frost on the colder surfaces in the Ice Condenser. However, frost does not degrade flow channel flow area per the Westinghouse definition of frost. The surveillance will effectively demonstrate operability for an allowed 18 month cycle. Therefore, increasing the surveillance frequency does not affect the ice condenser operation or accident response. An ice bed condition of less than or equal to 15% flow channel blockage is assured to be maintained for the operating cycle to address the limiting design basis accident(s) (DBAs).

Thus, based on the above, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The Proposed Change Does Not Create The Possibility Of A New Or Different Kind Of Accident From Any Accident Previously Evaluated[.]

Because the TSs and TS Bases changes do not involve any physical changes to the ice condenser, any physical or chemical changes to the ice contained therein, or make any changes in the operational or maintenance aspects of the ice condenser as required by the TSs, there can be no new accidents created from those already identified and evaluated.

C. The Proposed Change Does Not Involve A Significant Reduction In A Margin Of Safety[.]

The ice condenser Technical Specifications ensure that during a LOCA or HELB the ice condenser will initially pass sufficient air and steam mass to preclude over pressurizing lower containment, that it will absorb sufficient heat energy initially and over a prescribed time period to assist in precluding containment vessel failure, and that it will not alter the bulk containment sump pH and boron concentration assumed in the accident analyses.

Since the proposed changes do not physically alter the ice condenser, but rather only serve to strengthen and clarify ice sampling and analysis requirements, the only area of potential concern is the effect these changes could have on bulk containment sump pH and boron concentration following ice melt. However, this is not affected because there is no change in the existing requirements for pH and boron concentration, except to add an upper limit on boron concentration. This upper limit is the bounding value for the boron precipitation analysis. The upper limit boron concentration is an existing design bases limit that is controlled by existing procedure. Therefore, the addition of a TS requirement for an upper limit on boron concentration does not affect the physical operation or condition of the ice condenser.

Averaging the pH and boron values obtained from analysis of the individual samples taken is not a new practice, just one that was not consistently used by all ice condenser plants. Using the averaged values provides an equivalent bulk value for the ice condenser, which is consistent with the accident analysis for the bulk pH and boron concentration of the containment sump following ice melt.

Changing the performance Frequency for sampling the stored ice does not reduce any margin of safety because (1) the newly proposed surveillance ensures ice additions meet the existing boron concentration and pH requirements, (2) there are no normal operating mechanisms, including sublimation, that reduce the ice condenser bulk pH and boron concentration, and (3) the number of required samples has been increased from 9 to 24 (one randomly selected ice basket per bay), which is approximately the same number of samples that would have been taken in the same time period under the existing requirements.

Design Basis Accident analyses have shown that with 85 percent of the total flow area available (uniformly distributed), the ice condenser will perform its intended function. Thus, the safety limit for ice condenser operability is a maximum 15 percent blockage of flow channels. The existing TS surveillance requirement currently uses a specific value of 0.38 inch buildup to determine if unacceptable frost/ice blockage exists in the ice condenser. However, this specific value does not have a direct correlation to the safety limit for blockage of ice condenser flow area. The proposed TS amendment requires more extensive visual inspection (33 percent of the flow area/bay) than is currently described (2 flow channels/bay) in the TS Bases, thus providing greater reliability and a direct relationship to the analytical safety limits. Changing the TS to implement a surveillance program that is more reliable and uses acceptance criteria of less than or equal to 15 percent flow blockage, as allowed by the TMD code analysis, will not reduce the margin of safety of any TS.

The proposed amendment also revises the surveillance frequency of flow area inspection from every 9 months to every 18 months such that it will coincide with refueling outages. Management of ice condenser maintenance activities has successfully limited activities with the potential for significant flow channel degradation to the refueling outage. By verifying an ice bed condition of less than or equal to 15% flow channel blockage following completion of these maintenance activities, the surveillance assures the ice bed is in an acceptable condition for the duration of the operating cycle. During the operating cycle, an expected amount of ice sublimates and reforms as frost on the colder surfaces in the Ice Condenser. However, frost has been determined to not degrade flow channel flow area. Thus, design limits for the continued safe function of containment sub-compartment walls and the steel containment vessel are not exceeded due to this change.

Thus, it can be concluded that the proposed TS and TS Bases changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006.

NRC Section Chief: Richard Emch.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: June 12, 2001.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 4.8.1.1.2.a and delete the table referenced in TS 4.8.1.1.2.a, to remove the requirement for an accelerated test frequency for the emergency diesel generators (EDGs); delete TS 4.8.1.1.2.c.1 to remove the requirement to subject the EDG to an inspection in accordance with the manufacturer's recommendations; revise TSs 4.8.1.1.2.c.9, 10 and 13 to allow that EDG surveillances regarding the 24-hour endurance run, the auto-connected loads not exceeding the 2-hour rating, and the fuel transfer pump transferring fuel via the cross-connect lines, are conducted during modes other than during shutdown; and delete TSs 4.8.1.1.3 and 6.9.1.5.d to remove the EDG special reporting requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

There are no previously evaluated accidents associated with these surveillance activities. The EDGs are not accident initiators. The EDGs provide assistance in accident mitigation. There are no technical changes related to the acceptance criteria of any of these surveillances nor are there any physical changes to plant design proposed in this amendment request. The proposed change, requesting that the frequency and scheduling aspects of the surveillance requirements be changed to accommodate improved planning capability for testing and maintenance activities, does not affect the accident analyses. Additionally, the allowance to perform testing and maintenance activities on line will improve EDG availability during periods of shutdown operations.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not include any physical changes to plant design or a change to any of the current SR [surveillance requirement] acceptance criteria. Performance of any of these surveillance activities while at power does not render the EDGs unavailable in that they can provide station power on demand. Performance of maintenance activities and surveillance requirements while on line, which could result in the equipment being out of service, was included in the development of the Limiting Conditions for Operation (LCO). Quantitative and qualitative evaluations relative to the credit allowed for redundant components and the time allowed for corrective actions were also considered in LCO development. Performance of these activities while on line does not create any new or different kinds of accident. The capability of the EDG to respond to an accident situation while tied to the grid

during testing activities is tested as required by existing surveillance requirements. These tests ensure that if tied to the gird [grid] the EDG output breaker will open and the EDG [will] remain running in standby until an under voltage condition is observed, at which time the EDG will automatically tie on to the 4160 V [volt] ESF [engineered safety features] bus.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

The proposed changes are associated with surveillance requirements for the EDGs. The deletion of accelerated testing requirements provides an enhancement to safety by eliminating unnecessary testing. The remaining proposed changes allow certain EDG surveillance requirements to be performed when the plant is at power rather than when shutdown. The operation of, and requirements for, the equipment covered by the affected TSs will remain essentially the same.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: June 12, 2001.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3.8.1.1 to provide a one-time extension of the allowed outage time (AOT) for an inoperable emergency diesel generator (EDG) from three days to ten days, provided the alternate alternating-current diesel generator (AACDG) is available. In addition, the proposed amendment would revise TS 3.4.4 to make the action associated with an inoperable emergency power supply to the pressurizer heaters consistent with the proposed EDG AOT.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Typically, only one EDG is OOS [out of service] for maintenance activities at any given time. The standby EDG is aligned as required by Technical Specifications (TS) and available for auto start upon demand. Additionally, the AACDG is verified available and capable of being aligned to the Engineered Safety Features (ESF) electrical buses associated with the OOS EDG. The AACDG is sized such that it can carry the loads equivalent to at least one train of Engineered Safety Features (ESF) equipment. In the event of a loss of offsite power while an EDG is OOS, the AACDG will be manually started and loaded. The time delay associated with the manual start of the AACDG will result in a minimal change in the overall risk associated with the ability to reestablish power to ESF equipment upon a loss of offsite power. However, assuming the standby EDG operates as designed, it will start upon receipt of the automatic start signal and sequence on loads as required.

The plant can be maintained in a safe configuration or mitigate any accident situations with only one train of ESF components. Reliance upon the AACDG to provide a backup function ensures a minimal change in risk associated with extending the EDG AOT. The EDG AOT of 72 hours under the existing technical specifications does not consider an additional backup power supply to be available to mitigate a loss of offsite power. The proposed change will ensure that an alternate onsite diesel generator will be available while the EDG is out of service. Therefore, this change is considered a more responsive action than that contained in the current TSs.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The duration of an AOT is determined considering that there is a minimal possibility that an accident will occur while a component is removed from service. Typically, only the single redundant train is available during the AOT with no backup components available to supply the function of the component. The proposed change allows the EDG AOT to be extended one time for each EDG to 10 days with reliance on the AACDG. If the AACDG is not available, the AOT is 72 hours. No new modifications are required to allow the AACDG to function.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

The EDG AOT will be 10 days for each EDG if the AACDG is available. However, if the AACDG is not available, the EDG AOT will remain at 72 hours. The AACDG supplies backup power to the redundant train of ESF components. The standby EDG, which is typically not aligned in a test mode during the AOT, will be available to automatically start and sequence on loads upon demand. Two trains of ESF components powered from the onsite electrical sources, the standby EDG and the AACDG, will be available in the event of an accident. When the AACDG is not available, the current 72-hour AOT will begin. In conclusion, either the AACDG will be available, which will result in two ESF trains being available in the unlikely event of an accident, or the current AOT will apply.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Exelon Generation Company, LLC, PSEG Nuclear LLC, and Atlantic City Electric Company, Docket No. 50–278, Peach Bottom Atomic Power Station, Unit No. 3, York County, Pennsylvania

Date of application for amendment: May 30, 2001.

Description of amendment request: The proposed amendment would allow an extension to the interval for integrated leak rate tests (ILRTs) of the reactor containment building. The change involves a one-time exception to the 10-year frequency of the performance-based leakage rate testing program for Type A tests as required by Nuclear Energy Institute 94–01, Revision 0, ''Industry Guideline for Implementing Performance-Based Option of 10 CFR Part 50, Appendix J.'' The current 10-year containment building ILRT for Peach Bottom Atomic Power Station (PBAPS), Unit 3, is due in December 2001 and is currently scheduled to be performed during Refueling Outage 3R13 in October 2001. The proposed exception would allow the next ILRT for PBAPS, Unit 3, to be performed within 16 years (December 2007) from the last ILRT as opposed to the current 10-year frequency.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed Technical Specification change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision to Technical Specification 5.5.12 (''Primary Containment Leakage Rate Testing Program'') involves a one-time extension to the current interval for Type A containment testing. The current test interval of ten (10) years would be extended on a one-time basis to no longer than sixteen (16) years from the last Type A test. The proposed Technical Specification change does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled. The reactor containment is designed to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. As such the reactor containment itself and the testing requirements invoked to periodically demonstrate the integrity of the reactor containment exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve the prevention or identification of any precursors of an accident. Therefore, the proposed Technical Specification change does not involve a significant increase in the probability of an accident previously evaluated.

The proposed change involves only the extension of the interval between Type A containment leakage tests. Type B and C containment leakage tests will continue to be performed at the frequency currently required by plant Technical Specifications. Industry experience has shown, as documented in NUREG–1493, that Type B and C containment leakage tests have identified a very large percentage of containment leakage paths and that the percentage of containment leakage paths that are detected only by Type A testing is very small. PBAPS, Unit 3 ILRT test history supports this conclusion. NUREG–1493 concluded, in part, that reducing the frequency of Type A containment leak tests to once per twenty (20) years leads to an imperceptible increase in risk. The integrity of the reactor containment is subject to two types of failure mechanisms which can be categorized as (1) activity based and (2) time based. Activity based failure mechanisms are defined as degradation due to system and/or component modifications or maintenance. Local leak rate test requirements and administrative controls such as design change control and procedural requirements for system restoration ensure that containment integrity is not degraded by plant modifications or maintenance activities. The design and construction requirements of the reactor containment itself combined with the containment inspections performed in accordance with ASME Section XI, the Maintenance Rule and licensing commitments related to containment coatings serve to provide a high degree of assurance that the containment will not degrade in a manner that is detectable only by Type A testing. Therefore, the proposed Technical Specification change does not involve a significant increase in the consequences of an accident previously evaluated.

2. The proposed Technical Specification change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed revision to the Technical Specifications involves a one-time extension to the current interval for Type A containment testing. The reactor containment and the testing requirements invoked to periodically demonstrate the integrity of the reactor containment exist to ensure the plant's ability to mitigate the consequences of an accident and do not involve the prevention or identification of any precursors of an accident. The proposed Technical Specification change does not involve a physical change to the plant or the manner in which the plant is operated or controlled. Therefore, the proposed Technical Specification change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed Technical Specification change does not involve a significant reduction in a margin of safety.

The proposed revision to Technical Specifications involves a one-time extension to the current interval for Type A containment testing. The proposed Technical Specification change does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled. The specific requirements and conditions of the Primary Containment Leakage Rate Testing Program, as defined in Technical Specifications, exist to ensure that the degree of reactor containment structural integrity and leak-tightness that is considered in the plant safety analysis is maintained. The overall containment leakage rate limit specified by Technical Specifications is maintained. The proposed change involves only the extension of the interval between Type A containment leakage tests. Type B and C containment leakage tests will continue to be performed at the frequency currently required by plant Technical Specifications.

PBAPS, Unit 3 and industry experience strongly supports the conclusion that Type B and C testing detects a large percentage of containment leakage paths and that the percentage of containment leakage paths that are detected only by Type A testing is small. The containment inspections performed in accordance with ASME Section XI, the Maintenance Rule and the Coatings Program serve to provide a high degree of assurance that the containment will not degrade in a manner that is detectable only by Type A testing. Additionally, the on-line containment monitoring capability that is inherent to inerted BWR containments allows for the detection of gross containment leakage that may develop during power operation. The combination of these factors ensures that the margin of safety that is inherent in plant safety analysis is maintained. Therefore, the proposed Technical Specification change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for Licensee: Mr. Edward Cullen, Vice President and General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: James W. Clifford.

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: June 13, 2001.

Description of amendment request: The proposed amendment clarifies the Kewaunee Nuclear Power Plant Technical Specification 5.3 to permit lead-test-assemblies to be used, regardless of clad material, as long as the Nuclear Regulatory Commission has generically approved the fuel assembly design for use in pressurized water reactors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

Changing the technical specification within limits of the bounding accident analyses cannot change the probability of an accident previously evaluated, nor will it increase radiological consequence predicted by the analyses of record. Controlling the use of lead-test-assemblies, designs of which were approved by the NRC, according to limitations approved by the NRC constrains fuel performance within limits bounded by existing design basis accident and transient analyses. Thus, nothing in this proposal will cause an increase in the probability or consequence of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

Inclusion in the reactor core of lead-test-assemblies according to limitations set by the NRC and of a design approved by the NRC ensures that their effect on core performance remains within existing design limits. Use of NRC approved fuel assemblies as lead-test-assemblies is consistent with current plant design bases, does not adversely affect any fission product barrier, and does not alter the safety function of safety significant systems, structures and components or their roles in accident prevention or mitigation. Currently licensed design basis accident and transient analyses of record bound the effect of lead-test-assemblies. Thus, this proposal does not create the possibility of a new or different kind of accident.

(3) Involve a significant reduction in the margin of safety.

The proposed change does not alter the manner in which Safety Limits, Limiting Safety System Setpoints, or Limiting Conditions for Operation are determined. This clarification of TS 5.3 is bounded by existing limits on reactor operation. It leaves current limitations for use of lead-test-assemblies in place, conforms to plant design bases, is consistent with current safety analyses, and limits actual plant operation within analyzed and licensed boundaries. Thus, changes proposed by this request do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497.

NRC Section Chief: Claudia M. Craig.

PPL Susquehanna, LLC, Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: November 16, 2000.

Description of amendment request: The proposed change would delete a note to Technical Specification (TS) Surveillance Requirement (SR) 3.6.1.1.1, which permitted a temporary extension to the surveillance interval for testing spectacle flanges 2S299A and 2S299B.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change to Technical Specification SR 3.6.1.1.1 is administrative in nature. The note is no longer required as the condition has been corrected and the SR performed with acceptable results. Removal of the note restores the Technical Specification to its original condition and therefore, this proposed amendment does not involve any increase in the probability of occurrence or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The note is no longer required as the condition has been corrected and the SR performed with acceptable results. Removal of the note by this change restores the Technical Specification to its original condition and therefore does not create any possibility of a new or different kind of accident from those previously analyzed.

3. The proposed change does not involve a significant reduction in a margin of safety.

The note is no longer required as the condition has been corrected and the SR performed with acceptable results. Therefore, removal of the note by this change restores the Technical Specification to its original condition and does not involve a reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Acting Section Chief: Richard Correia.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: March 5, 2001.

Description of amendment request: The proposed amendment would: (1) change the Security Plan provision that a member of the security force escort all vehicles, other than designated licensee vehicles, and delete the related Security Training and Qualification Plan task; (2) change the requirement of the Security Plan that all areas of the protected area be illuminated to a minimum of 0.2 footcandle; and (3) change the frequency of protected area patrols in the Security Plan.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes involving security activities do not reduce the ability for the security organization to prevent radiological sabotage and therefore do not increase the probability or consequences of a radiological release previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes involve functions of the security organization concerning vehicle control, protected area illumination, and protected area patrol frequency. Analysis of the proposed changes has not indicated nor identified a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Analysis of the proposed changes show that they affect only the functions of the Security organization and have no impact upon nor cause a significant reduction in margin of safety for plant operation. The failure points of key safety parameters are not affected.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Section Chief: James W. Clifford.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: May 21, 2001.

Description of amendment request: The proposed amendment will delete the definitions, the limiting conditions for operation, and the surveillance requirements and revise the design features and administrative controls to reflect the transfer of all the spent nuclear fuel from the 10 CFR Part 50 licensed site to the 10 CFR Part 72 licensed Independent Spent Fuel Storage Installation (ISFSI) from the Rancho Seco Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed changes reflect removing the spent nuclear [fuel] from the 10 CFR Part 50 licensed facility and transferring the fuel to a 10 CFR Part 72 licensed facility. The design basis accidents analyzed in the Rancho Seco Defueled Safety Analysis Report (DSAR) include the fuel handling accident and a loss of offsite power (LOOP). The fuel handling accident is the worst-case design basis accident postulated to occur at Rancho Seco. Both of these accidents are based on spent nuclear fuel being stored in the spent fuel pool at the 10 CFR Part 50 licensed facility.

With the removal of the spent nuclear fuel from the 10 CFR Part 50 licensed facility,

there are no remaining important to safety systems required to be monitored and there are no remaining credible accidents that require the actions of a Certified Fuel Handler or Non-Certified Fuel Handler to prevent occurrence or mitigate the consequences.

DSAR Section 14.2 provides a discussion of accidents during decommissioning. The DSAR concludes that the consequences of the accidents evaluated in NUREG/CR–0130 ''Technology, Safety, and Costs of Decommissioning a Reference Pressurized Water Reactor Power Station'' bound the potential accidents that could occur during decommissioning at Rancho Seco. The proposed Technical Specification changes have no impact on decommissioning activities.

The proposed Technical Specification Section D5.2 precludes the storage of spent nuclear fuel at the 10 CFR Part 50 licensed facility. The probability or consequences of accidents at the ISFSI are evaluated in the ISFSI FSAR [Final Safety Analysis Report] and are independent of the 10 CFR Part 50 license.

Therefore, with all of the spent fuel stored at the Rancho Seco ISFSI, the accidents evaluated in the DSAR are no longer relevant, and the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed changes reflect the reduced operational risks within the 10 CFR Part 50 licensed facility after the fuel is transferred to the 10 CFR Part 72 licensed ISFSI. The proposed changes do not result in physical changes to the 10 CFR Part 50 facility and the plant conditions for which the design basis accidents have been evaluated are no longer applicable.

No new failure modes are introduced as the result of the proposed changes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed license amendment involve a significant reduction in a margin of safety?

No. As described above, the proposed changes reflect the reduced operational risks within the 10 CFR Part 50 licensed facility after the fuel is transferred to the ISFSI. The design basis and the accident assumptions in the Defueled Safety Analysis Report (DSAR), and the Technical Specification Bases are no longer applicable after the fuel is permanently removed from the 10 CFR Part 50 licensed facility. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's significant hazards analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas A. Baxter, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N. Street, N.W., Washington, D.C. 20037.

NRC Section Chief: Stephen Dembek.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: June 7, 2001.

Description of amendment request: The proposed amendment will delete certain administrative requirements from the Rancho Seco Technical Specifications and relocate other administrative requirements from the Rancho Seco Technical Specifications to the Rancho Seco Quality Manual following the transfer of all the spent nuclear fuel from the 10 CFR part 50 licensed site to the 10 CFR Part 72 licensed Independent Spent Fuel Storage Installation (ISFSI).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed changes are administrative and involve deleting certain administrative requirements from the Technical Specifications. Some administrative requirements are no longer applicable after permanently transferring the spent nuclear fuel from the 10 CFR 50 licensed facility to the 10 CFR 72 licensed ISFSI. Other administrative requirements are being relocated to the NRC-approved Rancho Seco Quality Manual (RSQM).

Relocating administrative requirements to the NRC-approved RSQM is consistent with the guidance in NRC Administrative Letter 95–06. Relocating these administrative requirements will not alter the configuration or operation of the facility, and therefore does not involve a significant increase in the probability or consequences of an accident previously evaluated.

In addition, deleting certain administrative requirements (i.e., PRC [Plant Review Committee] and MSRC [Management Safety Review Committee]) is based on permanently removing the spent nuclear fuel from the 10 CFR Part 50 licensed facility and transferring the fuel to a 10 CFR Part 72 licensed facility.

The design basis accidents analyzed in the Rancho Seco Defueled Safety Analysis Report (DSAR) include the fuel handling accident and a loss of offsite power. Both of these accidents are based on spent nuclear fuel being stored in the spent fuel pool at the 10 CFR Part 50 licensed facility.

With all of the spent fuel stored at the Rancho Seco ISFSI, the accidents evaluated in the DSAR are no longer relevant. Therefore, the proposed license amendment does not involve any increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed changes are administrative and reflect the reduced operational risks within the 10 CFR Part 50 licensed facility after the fuel is transferred to the 10 CFR Part 72 licensed ISFSI. The proposed changes do not result in physical changes to the 10 CFR Part 50 facility, and the plant conditions for which the design basis accidents have been evaluated are no longer applicable.

No new failure modes are introduced as the result of the proposed changes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed license amendment involve a significant reduction in a margin of safety?

No. As described above, the proposed changes are administrative and reflect the reduced operational risks within the 10 CFR Part 50 licensed facility after the fuel is transferred to the ISFSI. The design basis and the accident assumptions in the DSAR and the Technical Specification Bases are no longer applicable after the fuel is permanently removed from the 10 CFR Part 50 licensed facility. Therefore, the proposed changes do not involve any reduction in a margin of safety.

The NRC staff has reviewed the licensee's significant hazards analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas A. Baxter, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N. Street, N.W., Washington, D.C. 20037.

NRC Section Chief: Stephen Dembek.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 24, 2001.

Description of amendment request: The proposed change would relocate Technical Specification 3/4.9.6, ''Refueling Machine'' to the Technical Requirements Manual consistent with NUREG–1431, ''Standard (Improved) Technical Specifications—Westinghouse Plants.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the

issue of no significant hazards consideration, which is presented below:

Pursuant to 10 CFR 50.92, it has been determined that this proposed amendment involves no significant hazards consideration. This determination was made by applying the Nuclear Regulatory Commission established standards contained in 10 CFR 50.92. These standards assure that operation of South Texas Project in accordance with this request consider the following:

(1) Will the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This request involves an administrative change only. No actual plant equipment or accident analyses will be affected by the proposed changes. Operability of the refueling machine ensures that the equipment used to handle fuel within the reactor vessel has sufficient load capacity for handling fuel assemblies and/or control rods. Although the refueling machine is designed and has interlocks that can prevent damage to the fuel assemblies, the equipment is not assumed to function or actuate to mitigate the consequences of a design basis accident or transient in the safety analysis. Therefore, the proposed amendment does not result in any increase in the probability or consequences of an accident previously evaluated.

(2) Will the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This request involves an administrative change only. The proposed change does not alter the performance of the refueling machine and auxiliary hoist or the manner in which the equipment will be operated. The refueling equipment will still be tested before placing the equipment into operational service. Changing the location of these requirements and surveillances from Technical Specifications to the Technical Requirements Manual [TRM] will not create any new accident initiators or scenarios. Since the proposed changes only allow activities that are presently approved and conducted, no possibility exists for a new or different kind of accident from those previously evaluated.

(3) Will the change involve a significant reduction in a margin of safety?

Response: No.

This request involves administrative changes only. No actual plant equipment or accident analyses will be affected by the proposed change. Additionally, the proposed changes will not relax any criteria used to establish safety limits, will not relax any safety systems settings, or will not relax the bases for any limiting conditions of operation. Therefore, the proposed changes will not impact the margin of safety.

Conclusion

Based on the above analysis, STPNOC concludes that the proposed amendment to relocate these requirements from Technical Specifications to the TRM involve no significant hazards consideration under the standards set forth in 10 CFR 50.92(c) and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Robert A. Gramm.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 24, 2001.

Description of amendment request: Revise the Technical Specification definition for CORE ALTERATIONS so that moving the control rods with the integrated head package would not be a core alteration.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

STPNOC [South Texas Project Nuclear Operating Company] has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10CFR50.92, ''Issuance of amendment,'' as discussed below.

(1) Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change in the definition of CORE ALTERATIONS will not alter the way STPNOC handles the integrated head package. No new accident initiators will be introduced. Consequently, there is no significant increase in the probability of an accident previously evaluated.

The evaluation demonstrates that the RCCAs [rod cluster control assemblies] have no effect on reactivity when they are withdrawn into the integrated head package. The proposed change has no effect on assumptions made in any accident previously evaluated. Consequently, there are no significant increases in the consequences of an accident previously evaluated.

(2) Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve any new processes, procedures, or significantly different plant configurations. No new reactivity configurations are presented. Consequently, the possibility of a new or different kind of accident is not created.

(3) Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The evaluation shows the RCCAs have no effect on reactivity when they are withdrawn into the integrated head package. Moving the integrated head package with the RCCAs withdrawn provides the same degree of control on reactivity as the original definition. Consequently, the proposed change does not involve a significant reduction in the margin of safety.

Conclusion

Based upon the analysis provided herein, the proposed amendments will not increase the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a reduction in a margin of safety. Therefore, the proposed amendments meet the requirements of 10 CFR 50.92 and do not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Robert A. Gramm.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance

with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to pdr@nrc.gov.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: October 20, 2000, as supplemented by letter dated March 12, 2001.

Brief description of amendments: The amendments revised the Technical Specifications (TS) 3.7.10, ''Control Room Area Ventilation System (CRAVS)'' by eliminating the requirement for the CRAVS high chlorine protection function. The amendments also eliminated the requirement for the safety related chlorine monitor and the capability for automatic isolation of the control room area ventilation system when prompted by a signal from the detectors. Revisions to the corresponding Bases for TS 3.7.10 have been incorporated.

Date of issuance: June 28, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance June 28, 2001.

Amendment Nos.: 191 and 183.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: January 10, 2001 (66 FR 2013). The supplement dated March 12, 2001, provided clarifying information that did not change the scope of the October 20, 2000, application nor the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 28, 2001.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: February 19, 2001.

Brief description of amendment: The amendment modifies Technical Specification 3.6.5, ''Vacuum Relief Valves,'' Limiting Condition for Operation, and extends the allowed outage time from 4 hours to 72 hours to restore the vacuum relief line to OPERABLE status. In addition, Attachment 1 to the Waterford Steam Electric Station, Unit 3 Operating License has been deleted and paragraph 2.C.1 revised to reflect the deletion.

Date of issuance: June 18, 2001.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 171.

Facility Operating License No. NPF–38: The amendment revised the Operating License and Technical Specifications.

Date of initial notice in Federal Register: 66 FR 27176, dated May 16, 2001.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 18, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket No. 50–389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application for amendment: November 28, 2000, as supplemented June 12, 2001.

Brief description of amendment: This amendment revises the design basis for the post-trip steam line break analysis to allow less than or equal to 2% fuel failure.

Date of Issuance: June 19, 2001.

Effective Date: June 19, 2001.

Amendment No.: 116.

Facility Operating License No. NPF–16: Amendment does not revise the operating license or its appendices.

Date of initial notice in Federal Register: February 7, 2001 (66 FR 9384). The June 12, 2001, supplement did not affect the original proposed no significant hazards determination, or expand the scope of the request as noticed in the **Federal Register**. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 19, 2001.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: January 30, 2001.

Brief description of amendment: The amendment changes two requirements in the Operating License regarding the reporting of changes to the approved fire protection plan and exceeding the licensed steady-state power level.

Date of issuance: June 26, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 203

Facility Operating License No. DPR–20. Amendment revised the Operating License.

Date of initial notice in Federal Register: April 4, 2001 (66 FR 17965). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 26, 2001.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: March 2, 2001.

Brief description of amendment: The proposed amendment revises Technical Specifications (TS) Section 5.6, ''TS Bases Control Program,'' to delete the term ''unreviewed safety question'' consistent with the recent revision to 10 CFR 50.59. The TS, as amended, would continue to incorporate the criteria of 10 CFR 50.59 by reference.

Date of issuance: June 15, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 32.

Facility Operating License No. NPF–90: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: April 4, 2001 (66 FR 17971).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 15, 2001.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland this 2nd day of July 2001.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–17223 Filed 7–10–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued revisions of two guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 3 of Regulatory Guide 1.52, ''Design, Inspection, and Testing Criteria for Air Filtration and Adsorption Units of Post-Accident Engineered-Safety-Feature Atmosphere Cleanup Systems in Light-Water-Cooled Nuclear Power Plants,'' describes methods acceptable to the NRC staff for complying with the NRC's regulations with regard to the design, inspection, and testing criteria for air filtration and iodine adsorption units of engineered-safety-feature atmosphere cleanup systems in light-water-cooled nuclear power plants. This guide applies only to post-accident atmosphere cleanup systems that are designed to mitigate the consequences of postulated accidents.

Revision 2 of Regulatory Guide 1.140, ''Design, Inspection, and Testing Criteria for Air Filtration and Adsorption Units of Normal Atmosphere Cleanup Systems in Light-Water-Cooled Nuclear Power Plants,'' describes methods acceptable to the NRC staff for complying with the NRC's regulations with regard to the criteria for air filtration and adsorption units installed in the normal ventilation exhaust systems of light-water-cooled nuclear power plants.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection or downloading at the NRC's web site at <*WWW.NRC.GOV*> under Regulatory Guides and in NRC's Electronic Reading Room (ADAMS System) at the same site; Revision 3 of Regulatory Guide 1.52 is under ADAMS Accession Number ML011710176; Revision 2 of Regulatory Guide 1.140 is under ADAMS Accession Number ML011710150. Single copies of regulatory guides may be obtained free of charge by writing the Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to (301)415–2289, or by email to <*DISTRIBUTION@NRC.GOV*>. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 25th day of June 2001.

For the Nuclear Regulatory Commission.

Michael E. Mayfield,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 01–17349 Filed 7–10–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Service, Washington, DC 20549

Extension:

Rule 15Bc3–1 and Form MSDW, SEC File No. 270–93, OMB Control No. 3235–0087

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information discussed below.

Rule 15Bc3–1 under the Securities Exchange Act of 1934 provides that a notice of withdrawal from registration with the Commission as a bank municipal securities dealer must be filed on Form MSDW.

The Commission uses the information submitted on Form MSDW in determining whether it is in the public interest to permit a bank municipal securities dealer to withdraw its registration. This information is also important to the municipal securities dealer's customers and to the public, because it provides, among other things, the name and address of a person to contact regarding any of the municipal securities dealer's unfinished business.

The staff estimates that approximately 20 respondents will utilize this notice annually, with a total burden for all respondents of 10 hours, based upon past submissions. The staff estimates that the average number of hours necessary to comply with the requirements of Rule 15Bc3–1 is .5 hours. The average cost per hour is approximately $101. Therefore, the total cost of compliance for the respondents is $1,010 ($101 × 5 × 20 = $1,010).

Providing the information on the notice is mandatory in order to withdraw from registration with the Commission as a bank municipal securities dealer. The information contained in the notice will not be confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 3, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–17266 Filed 7–10–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44507; File No. SR–AMEX–2001–31]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange LLC Relating to the Pilot Program Eliminating Position and Exercise Limits for Certain Broad Based Index Options

July 3, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 23, 2001, the American Stock Exchange LLC (''Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to re-establish a pilot program eliminating position and exercise limits for the Major Market (''XMI'') and Institutional (''XII'') broad-based index options, as well as FLEX Options on these indexes for a period of six months. The Commission previously approved the pilot program on a two-year basis that ended on February 1, 2001.[3] Unfortunately, the pilot program lapsed without the Exchange submitting a required rule filing for an extension of the program. As part of any extension, the Commission in the Pilot Program Release required the Exchange to submit a report detailing the size and different types of strategies employed with respect to positions in those classes not subject to position and exercise limits.[4] The experience at the Amex shows that the reporting threshold of over 100,000 contracts on the same side of the market for members and member organizations was never reached during the pilot program period.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 41011 (February 1, 1999), 64 FR 6405 (February 9, 1999) (''Pilot Program Release'').

[4] *Id.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to re-establish the two-year pilot program eliminating position and exercise limits for XMI and XII index options, as well as FLEX Options on these indexes for six months. The Exchange will continue to apply the requirements required by the Commission in the Pilot Program Release. Specifically, the Exchange will require that each member or member organization that maintains a position on the same side of the market in excess of 100,000 contracts in XMI, XII or FLEX Options on these indexes, for its own account or for the account of a customer, to report certain information.[5] In addition, the Amex will continue to require that member organizations report all index option positions exceeding 200 contracts, pursuant to Exchange Rule 906C.

Although the reporting thresholds in the lapsed pilot program were never met, the Exchange continues to believe that investors and member firms may require such flexibility in the future. In particular, the base limits for XMI and XII options may not be adequate for certain hedging needs for institutions that engage in trading strategies differing from those covered under the existing index hedge exemption policy (*e.g.,* delta hedges; OTC vs. listed hedges). Accordingly, the Amex believes that, with the elimination of position and exercise limits for these products, staff resources could be better utilized elsewhere.

Manipulation

Position and exercise limits were first imposed at the inception of options trading in 1973 in response to regulatory concerns over the potential for manipulation and market instability. The Amex believes that position and exercise limits in broad-based index options no longer serve their stated purpose largely due to increased trading in the underlying market and better surveillance procedures. The Commission has stated that:

> Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.[6]

The Exchange believes that the size and breadth of the market underlying broad-based index options is so large and liquid as to dispel any concerns regarding market manipulation.[7] To date, there has not been a single disciplinary action involving manipulation in any broad-based index product listed on the Exchange. The Exchange believes that its eighteen years of experience conducting surveillance of index options and program trading activity is sufficient to identify improper activity. Routine oversight inspections of Amex's regulatory programs by the Commission have not uncovered any inconsistencies or shortcomings in the manner in which index option surveillance is conducted. These procedures entail a daily monitoring of market movements via automated surveillance techniques to identify unusual activity in both the options and underlying stock basket components. In addition, to date, there have been no adverse effects on markets as a result of the elimination of position and exercise limits for FLEX equity options.[8]

The Exchange continues to believe that financial requirements imposed by

[5] This information includes the options positions, whether such position is hedged and if so a description of the hedge and if applicable the collateral used to carry the position. *See* Amex Rule 906C(b).

[6] *See* Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998).

[7] The market capitalization as of May 21, 2001 for the underlying stocks of the XMI and XII are approximately $2.2 trillion and $7.7 trillion, respectively. In the Exchange's view, the large capitalizations and trading volumes of these underlying stocks renders unnecessary the need for position and exercise limits to protect against possible manipulative behavior.

[8] *See* Securities Exchange Act Release No. 39032 (September 9, 1997), 62 FR 48683 (September 16, 1997).

the Exchange and by the Commission adequately address concerns that a membe or its customer may try to maintain an inordinately large unhedged position in XMI and XII. As previously indicated in the Pilot Program Release, current margin, and risk-based haircut methoologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member must maintain for a large position held by itself or by its customer.[9]

Reporting Requirements

As previously required under the Pilot Program Release, the Exchange will require that each member or member organization that maintains a position on the same side of the market in excess of 100,000 contracts in XMI or XII index options, for its own account or for the account of a customer, report certain information. This data would include, but would not be limited to, the option position, whether such position is hedged and if so, a description of the hedge and if applicable, the collateral used to carry the position. Exchange market makers would continue to be exempt from this reporting requirement as market-maker information can be accessed through the Exchange's market surveillance systems. In addition, the general reporting requirement for customer accounts that maintain a position in excess of 200 contracts will remain at this level for broad-based index options.[10]

2. Basis

The proposed rule change is consistent with Section 6(b) of the Act[11] in general and furthers the objectives of Section 6(b)(5)[12] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordiantion with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission has reviewed carefully the Amex's proposed rule change and believes, for the reasons set forth below, the proposal is consistent with the requirements of Section 6(b) of the Act[13] and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes the proposal is consistent with Section 6(b)(5) of the Act[14] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Commission believes that an elimination of position and exercise limits for certain broad-based index options on a pilot basis is appropriate for the same reasons noted in the approval of the original pilot.[15] Overall, the Commission believes that the pilot will allow Amex to allocate certain of its surveillance resources differently, focusing on enhanced reporting and surveillance of trading to detect potential manipulation and risky positions that may unduly affect the cash market, rather than focusing on the strict enforcement of position limits. Although this regulatory approach deviates from the structure that has been in place since the beginning of index options trading, the Commission believes that the enhanced reporting and surveillance Amex is providing, as well as the fact that the pilot is limited to two of Amex's most highly capitalized and actively traded index options, provides a sound basis for approving a six-month pilot program eliminating position and exercise limits.

The Amex requests that the proposed rule change be given expedited review and accelerated effectiveness pursuant to Section 19(b)(2) of the Act because it is an extension of a lapsed pilot program previously approved y the Commission.[16] The Exchange believes that the arguments set forth by the Exchange, and the basis for the Commission's prior approval, are equally applicable to this filing.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register** as the proposal does not significantly affect the protection of investors or the public interest, and does not impose any significant burden on competition. There is good cause for the Commission to accelerate effectiveness of this rule filing because the proposal raises no new or novel issues and is an extension of the XMI/XII Position Limit Pilot Program under the same terms and conditions previously approved by the Commission.[17] Accordingly, the Commission believes that it is consistent with Sections 6(b)(5)[18] and 19(b)(2)[19] of the Act to approve the proposal on an accelerated basis.[20]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

[9] It should also be noted that the Exchange has the authority under paragraph (d)(2)(K) of Rule 462 to impose a higher margin requirement upon the member or member organization when the Exchange determines a higher requirement is warranted.

[10] *See* Amex Rule 906C(a).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78f(b). In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation, consistent with Section 3 of the Act. *Id.* at 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* note 3, *supra.* The Commission incorporates by reference the basis for approving the original pilot as set forth in the Pilot Program Release.

[16] 15 U.S.C. 78s(b)(2).

[17] *See* note 3, *supra.*

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78s(b)(2).

[20] The Commission requests that the Amex update the Commission on any problems that have developed with the pilot since the last extension, including any compliance issues, and whether there have been any large unhedged positions that have raised concerns for the Amex. In addition, the Commission expects that the Amex will take prompt action, including timely communication with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop.

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–AMEX–2001–31 and should be submitted by August 1, 2001.

V. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change is hereby approved on an accelerated basis on a six-month pilot basis until January 3, 2002.

For the Commission by the Division of Market Regulation, Pursuant to delegated authority.[22]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–17304 Filed 7–10–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44509; File No. SR–DTC–2001–09]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Raise Maximum Net Debit Caps and Required Participants Fund Contributions

July 3, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 29, 2001, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of (i) an increase to $1.80 billion from $1.15 billion in the maximum net debit cap for any participant in the daily money settlement system of DTC, (ii) an increase of $200 million in the cash deposits to DTC's Participants Fund so that the aggregate amount of the required deposits to DTC's Participants Fund plus the required preferred stock investments of participants will increase to $600 million from $400 million and (iii) a decrease in the maximum net debit monitoring level in DTC's Mortgage-Backed Securities Division (the ''MBS Division'') to $1.75 billion from $2 billion.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proprosed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC employs several risk management controls in its daily money settlement system to protect DTC and its participants against the risk that a participant will fail to pay its net debit balance. One of those risk management controls is the net debit cap control, which imposes net debit caps on all participants. Each participant's net debit is limited throughout the processing day to a net debit cap that is the lesser of four amounts: (1) A net debit cap based on the average of the three largest net debits that the participant incurs over a rolling 70 business day period, (2) an amount, if any, determined by the participant's settling bank, (3) an amount, if any, determined by DTC or (4) the aggregate of the cash deposits in the Participants Fund plus DTC's committed lines of credit minus a cushion, which amount is currently $1.15 billion.

Similarly, in the MBS Division each participant's net debit is limited throughout the processing day to a net debit monitoring level. The maximum net debit monitoring level in the MBS Division is the lesser of two amounts: (1) 100% of the total committed lines of credit available to DTC for the MBS Division (such total currently being $2 billion) or (2) an amount, if any, determined by DTC.

As trading volumes, particularly money market instruments, have increased, and as associated settlement values have increased, participants increasingly have had to make settlement progress payments, which are funds wired to DTC intraday, in order to avoid having their receipts of securities blocked by their net debit caps. Participants have requested that DTC raise the maximum net debit cap, which would increase operational efficiency for participants.

In order to provide liquidity in the event of a participant's failure to settle with DTC after the proposed increase in the maximum net debit cap, DTC is increasing the amount of the required deposits to the DTC Participants Fund. The required deposits are presently an aggregate of $325 million in cash and an aggregate of $75 million in required preferred stock investments. The required cash deposits to the Participants Fund will be increased to $525 million so that the aggregate amount of the required cash deposits and preferred stock investments of participants will be $600 million.

DTC and the National Securities Clearing Corporation are also jointly obtaining a committed credit facility to replace their existing separate credit facilities. As part of the new credit facility, the amount of the credit facility supporting DTC's money settlement system will be increased to $1.75 billion from $1 billion. This will give DTC aggregate available liquidity resources of $2.35 billion (*i.e.,* $1.75 billion credit facility plus $600 million Participants Fund and preferred stock investments). The amount of the credit facility supporting the MBS Division will be decreased to $1.75 billion from $2 billion.[3]

As a result of increasing the aggregate liquidity resources to $2.35 billion, DTC will be able to increase the maximum net debit cap for any participant to $1.8 billion from $1.15 billion.

The proposed rule change is consistent with the requirements of Section 17A of the Act[4] and the rules and regulations thereunder applicable to DTC because the proposed rule change will be implemented consistently with the safeguarding of securities and funds

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] The decrease in the amount of the credit facility supporting the MBS Division corresponds with a decrease in the volume of transactions being processed through the division and with an effort to more efficiently allocate the amount of credit available to DTC, NSCC, and the MBS Division.

[4] 15 U.S.C. 78q–1.

in DTC's custody or control or for which it is responsible because all of DTC's risk management controls will continue in effect.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no adverse impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The proposed rule change has been discussed with several participants. Written comments from participants or others have not been solicited or received on the proposed rule change. In addition to informing participants through this notice and order, all participants will be informed of the proposed rule change by a DTC Important Notice.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[5] The Commission believes that the proposed rule change is consistent with DTC's obligations under the Act because an increase in DTC's liquidity resources will help DTC protect itself, its participants, and investors from the risks associated with the failure of one or more of its participants to settle their obligation with DTC at the end of a business day. Furthermore, Commission approval of the rule change is consistent with the Commission's past approvals of increases in DTC's liquidity resources and maximum net debit cap.[6] Therefore, the Commission finds that DTC's proposed rule change is consistent with its obligations under Section 17A(b)(3)(F) of the Act.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing because accelerated approval will permit DTC to immediately increase its liquidity resources.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–2001–09 and should be submitted by August 1, 2001.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–2001–09) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–17269 Filed 7–10–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44502; File No. SR–GSCC–2001–05]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding a Participant Rebate Program

July 2, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 14, 2001, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to initiate a participant rebate program that will distribute excess income pro rata back to members each calendar quarter based upon their gross fees paid to GSCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

In its filing with the Commission, GSCC included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to initiate a participant rebate program that will distribute excess income pro rata back to members each calendar quarter based upon their gross fees paid to GSCC. The rebate program is immediately effective and the first rebate, if any, will be paid with respect to activity that took place during the second quarter of 2001.

GSCC states that there is no longer a need to continue to increase GSCC's level of shareholders' equity beyond a $30 million level since a sustained capital level of $30 million will be sufficient to provide for: (1) Adequate risk protection and (2) a cushion for temporary decreases in volumes and revenues. Moreover, GSCC expects that it will be able to fund all projects out of current revenues.

GSCC has structured the rebate program so that: (1) Rebates of excess net income will be made on a quarterly basis; (2) the amount of rebate provided to individual members will be based on

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] *See, e.g.,* Securities Exchange Act Release No. 40330 (August 17, 1998), 63 FR 45100.

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

the amount of fees paid by the member to GSCC with respect to the calendar quarter (adjusted as appropriate for rebates, clearance charges, and other miscellaneous charges); (3) the amount of rebate for each of the first three calendar quarters of a year will be equal to 50 percent of accumulated net income; and (4) the rebate for the last calendar quarter of a year will be equal to 100 percent of the remaining excess net income for the year.

GSCC has the right to exclude or include, as applicable, anticipated expenses, losses, liabilities, and revenues from its calculation of excess net income. For example, GSCC has the discretion to reserve for development expenses and the costs of special projects.

GSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it fulfills GSCC's mission of operating in a not-for-profit manner consistent with maintaining the integrity of GSCC's capital base, financial structure, and risk management process.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

(C) Self-Regulation Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. Members will be notified of the rule change filing and comments will be solicited by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

III. Debate of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing change establishes or changes a due, fee, or other charge imposed by GSCC, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder.[4] At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at GSCC. All submissions should refer to the File No. SR–GSCC–2001–05 and should be submitted by August 1, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–17267 Filed 7–10–01; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44495; File No. SR–GSCC–00–02]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to the Enhancement of Risk Management Processes

June 29, 2001.

On April 17, 2000, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–GSCC–00–02) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on January 9, 2001.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

A GSCC's netting member's clearing fund requirement is based on a formula designed to take into account the three basic risks posed to GSCC by netting members. These risks include: (1) That a member might not pay a funds only settlement amount due to GSCC; (2) that a member may fail to settle a long-term repo; and (3) that a member might not deliver or take delivery of securities that comprise a net settlement position.

As a result, there are three components to each member's clearing fund deposit requirement with the sum of the three being a member's overall requirement. The three components are (1) the funds adjustment (FAD) component,[3] (2) the repo volatility component,[4] and (3) the receive/deliver settlement component.[5] GSCC computes four receive/deliver settlement amounts each day. The four results are compared daily, and the largest amount is used in determining a member's clearing fund requirement. The four receive/deliver settlement computations are as follows: (1) Post-offset margin amount (POMA); [6] (2) average POMA; [7] (3) adjusted

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 43791 (January 2, 2001), 66 FR 1709.

[3] The funds adjustment component is based on each member's average funds only settlement amount. The relevant variable in this calculation is the size of the settlement amount. It does not matter whether the funds are to be collected from the member or paid to the member.

[4] The repo volatility component reflects the interest rate exposure incurred by GSCC in guaranteeing the contractual rate of interest on a repo transaction. The repo volatility factor essentially represents an estimate of the amount that repo market rates might change over the remaining course of the repo.

[5] The receive/deliver settlement component is based on the size and nature of net settlement positions. The margin collected on net settlement positions is determined by applying margin factors that are designed to estimate security price movements. The factors are expressed as percentages and are determined by historical daily price volatility. By multiplying security settlement values by their corresponding margin factors, GSCC estimates the amount of loss to which it is potentially exposed from price changes. Margin amounts on receive (long) and deliver (short) positions are allowed to offset each other. The extent to which an offset is allowed is determined by product and the degree of similarity in time remaining to maturity.

[6] The POMA computation offsets gains against losses in liquidating a member's positions that are anticipated based on historical experience. The POMA essentially is the total margin on the current day's positions and forward net settlement positions taking into account allowable offset percentages.

[7] The average POMA computation is based on the member's twenty highest POMA amounts occurring in the most recent 75 business days.

POMA;[8] and (4) liquidation amount. The liquidation computation, which is the subject of this rule filing, is a floor amount designed to ensure that if the margin offsets ordinarily allowed in calculating the receive/deliver settlement component do not reflect actual market conditions during a liquidation period, GSCC nonetheless will have a sufficient level of collateral protection. In other words, this minimum requirement protects against the risk that during a liquidation period the yield curve will be aberrational. In such a situation, collection of a minimum amount of margin based on gross calculation should ensure that GSCC will have sufficient collateral to cover liquidation losses.

The proposed rule change lowers the percentage calculated on the net long and net short positions in the liquidation amount calculation from 25 percent to 10 percent. GSCC believes that this more appropriately balances the level of margin it collects against the liquidity needs of its members.

GSCC believes that 25 percent was overly conservative for several reasons. First, GSCC's experience has demonstrated that its POMA and average POMA calculations provide adequate protection against potential settlement risks. By calculating an average POMA (based on a member's twenty highest POMA amounts occurring in the most recent 75 business days), GSCC ensures that it calculates a historically sufficient receive/deliver settlement component for a member even when current activity results in a relatively low requirement. Also, periodic studies conducted by GSCC assessing the risks presented to it from the potential default by a member on its obligations to GSCC have concluded that GSCC's methodologies for identifying and computings its risks provide it with a high level of protection on an individual and aggregate basis.

Second, the liquidation amount ignores and negates much of the protection afforded by a hedging strategy. The more a member engages in a hedging strategy with respect to its trading, the more it protects itself and in turn its clearing corporation from the risk of its failure. However, GSCC believes that the current 25 percent requirement effectively disregards the protection afforded to GSCC by a member that engages in trading activity on a fully hedged basis.

[8] The adjusted POMA computation is the same as the POMA with the exception that it excludes all trades that are scheduled to settle on the current day. This is done based on the assumption that those trades will in fact settle on the current day and that calculating POMA in this manner will more accurately reflect GSCC's settlement exposure during the current day.

II. Discussion

Section 17A(b)(3)(F)[9] of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds that are in its custody or control or for which it is responsible. Because the Commission believes that even with the liquidation component of the clearing fund formula reduced from 25 percent to 10 percent, GSCC's clearing fund formula will give GSCC sufficient resources to protect it in a situation where a member is insolvent and fails to settle with GSCC. As such, the Commission believes GSCC's proposal is consistent with its obligation to assure the safeguarding of securities and funds that are in its custody or control or for which it is responsible.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–00–02) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–17268 Filed 7–10–01; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44508; File No. SR–ISE–2001–17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the International Securities Exchange LLC Relating to Permanent Approval of its Allocation Algorithm Pilot

July 3, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 23, 2001, the International Securities Exchange LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the ISE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend Supplementary Material .01 to Rule 713 to adopt the Exchange's current allocation algorithm pilot program on a permanent basis. The Exchange's allocation algorithm pilot was approved by the Commission on May 22, 2000,[3] and recently was extended until August 1, 2001.[4] The text of the proposed rule change is available at the ISE and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ISE Rule 713 provides that, at a given price, customer orders have priority, based on the time priority of such orders. ISE Rule 713(e) provides that if there are two or more non-customer orders or market maker quotations at the Exchange's inside market, after filling all customers at that price, executions will be allocated between the non-customer orders and market maker quotations ''pursuant to an allocation procedure to be determined by the Exchange from time to time * * *.'' ISE Rule 713(e) also states that, if the primary market maker (''PMM'') is quoting at the Exchange's inside market, it will have precedence over non-

[3] *See* Securities Exchange Act Release No. 42808 (May 22, 2000), 65 FR 34515 (May 30, 2000)(''Release No. 42808'').

[4] *See* Securities Exchange Act Release No. 44340 (May 22, 2001), 66 FR 29373 (May 30, 2001)(''Release No. 44340'').

customer orders and competitive market maker (''CMM'') quotes for execution of orders that are up to a specified number of contracts. Supplementary Material .01 to ISE Rule 713 specifies the ISE's allocation procedure for non-customer orders and market maker quotations and defines the size of orders for which the PMM has priority to be those of five contracts or fewer.

The allocation procedure is a trading algorithm programmed in the ISE's electronic auction market system (the ''System'') that determines how to split the execution of incoming orders among professional trading interests at the same price. All public customer orders at a given price are always executed fully before the trading algorithm is applied. Moreover, because the algorithm is applied automatically by the System upon the receipt of an executable order, only those non-customer orders and market maker quotes that are in the System participate in the algorithm. Thus, there is no opportunity for a market participant to receive an allocation unless it had an order or quote in the System at the execution price at the time the incoming order was received by the System.

Subject to the PMM's participation rights discussed below, allocation of executions to non-customer orders and market maker quotes is based on the size associated with the order or quote relative to the total size available at the execution price. According to the Exchange, because PMMs have unique obligations to the ISE market,[5] they are provided with certain participation rights. If the PMM is one of the participants with a quote at the best price,[6] it has participation rights equal to the greater of (1) the proportion of the total size at the best price represented by the size of its quote, or (2) 60 percent of the contracts to be allocated if there is only one other non-customer order or market maker quotation at the best price, 40 percent if there are two other non-customer orders and/or market maker quotes at the best price, and 30 percent if there are more than two other non-customer orders and/or market maker quotes at the best price.[7] This allocation procedure has been approved by the Commission on a permanent basis, and the Exchange is not proposing any changes to the procedure at this time.[8]

In addition, to the above preference, the allocation procedure provides that the PMM has precedence to execute orders of five contracts or fewer. This means that such orders will be executed first by the primary market maker if it is quoting at the best price. This aspect of the allocation procedure was approved by the Commission on a one-year pilot basis.[9] In its temporary approval of this PMM preference, the Commission stated its intent to monitor the rule's impact on competition during the pilot period and the ISE agreed to provide four types of specific confidential data to the Commission on a quarterly basis. The Commission stated that these statistics would enable it to adequately assess the operation of the small-order preference and determine the merit of the competitive issues raised by commenters at the time the pilot was adopted. The ISE also committed to lowering the size of the orders to which the PMM is given a preference if the execution of orders for five contracts or fewer by PMMs exceeded 40 percent of total exchange volume (excluding volume from the execution facilitation orders).

During the pilot period, the Exchange has provided the statistics required under the pilot and has carefully monitored the percentage of total ISE volume resulting from execution of orders of five contracts or fewer by the PMMs. The Exchange notes that the 40% threshold was not reached during the pilot program, and in fact, that the total percentage was substantially lower than 40%. Moreover, the statistics indicated that the five contract precedence for PMMs did not result in reduced incentives for other market makers to quote aggressively. Large percentages of orders of five contracts or fewer were executed by participants other than the PMM, and large percentages of all the volume on the Exchange were executed by participants other than the PMM. Overall, the Exchange believes the confidential statistics showed that there is very active quote competition on the ISE for all orders, both large and small.

Going forward, the Exchange believes that the small order participation right for PMMs will not necessarily result in a significant portion of the Exchange's volume being executed by the PMM. As stated above, the PMM executed against such orders only if it is quoting at the best price, and only for the number of contracts associated with its quotation. Nevertheless, on a semi-annual basis, the Exchange will continue to evaluate what percentage of the volume executed on the Exchange is comprised of orders for five contracts or fewer executed by primary market makers, and will reduce the size of the orders included in this provision if such percentage is over 40 percent.

The small order participation rights for PMMs described above is part of the ISE's careful balancing of the rewards and obligations that pertain to each of the Exchange's classes of memberships. This balancing is part of the overall market structure that is designed to encourage vigorous price competition between market makers on the Exchange, as well as maximize the benefits of price competition resulting from the entry of customer and non-customer orders, while encouraging participants to provide market depth.[10]

The ISE is the first exchange in the United States to attempt to combine all of the elements of an auction market in an electronic environment. The Exchange believes the proposed trading algorithm, which includes participation rights for PMMs only when they are quoting at the best price, strikes the appropriate balance within its market and maximizes the benefits of an electronic auction market for all participants. The ISE's experience to

[5] For example, PMMs are responsible for ensuring that all ISE disseminated quotations are for at least 10 contracts, addressing customer orders that cannot be automatically executed when another market is disseminating a better quotation, and opening the market. *See* ISE Rule 803(c).

[6] The participation rights are programmed into the trading algorithm, so that they are applied automatically by the System when splitting executions among non-customer orders and market maker quotes after public customer orders at the same price are fully executed as described above. Consequently, like any other market participant, the PMM cannot receive any portion of an allocation, regardless of its participation rights, unless it is quoting at the best price at the time the executable order is received by the System. Moreover, the size associated with the PMMs quote must be sufficient to fill the portion of the order that would be allocated to it according to the participation rights, but the size of its quote is only 20 contracts, the PMM would receive an allocation of only 20 contracts. If the size associated with a PMM's quote is only three contracts when an executable order for five contracts is received (assuming there are no public customer orders), the PMM would execute only three contracts.

[7] According to the participation rights, a PMM quoting at the inside market generally is allocated the plurality of an order. For example, if both a PMM and CMM are quoting at the inside market for 50 contracts each, an incoming order for 10 contracts will be allocated between the two for six and four contracts respectively (a 60% allocation to the PMM). If the PMM is quoting for 50 contracts and there are two CMMs each quoting for 50 contracts, the PMM is allocated four contracts and the two CMMs are allocated three each (40 percent for the PMM, and the remaining 60 percent split equally between the CMMs because they are quoting an equal size). At a minimum, a PMM will be allocated 30 percent of an order, regardless of the number of other quotes or orders at that price.

[8] *See* Release No. 42808, *supra* note 3.

[9] *Id.* The pilot has been extended to August 1, 2001 while the Commission considers this proposed rule change requesting permanent approval. *See* Release No. 44340, *supra* note 4.

[10] The other options exchanges also have participation rights for their specialists, designated primary market makers and lead market makers. *See* Amex Rules 950(d) and 126(e); CBOE Rule 8.80(c)(7); PCX Rule 6.82(d)(2); and Phlx Rule 1014(g).

date has been consistent with this belief and the Exchange has provided the Commission with execution data to this effect. Accordingly, the Exchange requests that the Commission now approve the pilot on a permanent basis.

2. Statutory Basis

The ISE believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[11] which requires that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The ISE does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the ISE consents, the Commission will:

(A) By order approve the proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR–ISE–2001–17 and should be submitted by August 1, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–17305 Filed 7–10–01; 8:45 am]

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[11] 15 U.S.C. 78f(b)(5).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44505; File No. SR–Phlx–2001–54]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Eliminate the Requirement That the Three Core Members of the Equity and Options Allocation, Evaluation, and Securities Committees Who Conduct a Public Securities Business Be the Same People for Both Committees

July 3, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 16, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Phlx rule 500(a)(iii), Equity Allocation, Evaluation and Securities Committee and Options Allocation, Evaluation and Securities Committee (the ''Committee'' or ''Committees''), which establishes the composition of the Committees, to eliminate the requirement that the three core members of the Committees who conduct a public securities business be the same people for both Committees.[3] The following is the text of the proposed rule change. Proposed additions are *italicized* and proposed deletions are in brackets.

* * * * *

Rule 500. Equity Allocation, Evaluation and Securities Committee and Options Allocation, Evaluation and Securities Committee.

The Equity Allocation, Evaluation and Securities Committee and the Options Allocation, Evaluation and Securities Committee, respectively, shall administer Rules 500 through 599, where applicable, and unless indicated otherwise, these rules shall apply to both option and equity specialist evaluations and allocations. For the purpose of Rules 500 through 599, the term ''Committee'' shall mean either the Equity Allocation, Evaluation and Securities Committee or the Options Allocation, Evaluation and Securities Committee, where applicable.

(a) Composition.

(i) The core members of the Equity Allocation, Evaluation and Securities Committee shall be three persons who conduct a public securities business, and two persons who are active on the equity trading floor as a specialist or floor broker. The annual members of the Equity Allocation, Evaluation and Securities Committee shall be two persons who are active on the equity trading floor as a specialist or floor broker, one public Governor and one non-industry Governor.

(ii) The core members of the Options Allocation, Evaluation and Securities Committee shall be three persons who conduct a public securities business, one person who is active on the options trading floor as a floor broker, and one person who is active on the options trading floor as a specialist, registered options trader, or floor broker. The

[3] On July 5, 2000, the Commission approved a proposed rule change, which divided the Phlx Allocation, Evaluation and Securities Committee into two separate committees, one for equities and one for options. *See* Securities Exchange Act Release No. 43011 (July 5, 2000), 65 FR 34521 (May 30, 2000).

annual members of the Options Allocation, Evaluation and Securities Committee shall be two persons who are active on the options trading floor as a specialist, registered options trader, or floor broker, one public Governor and one non-industry Governor.

(iii) [The three persons who conduct a public securities business and t]*T*he public Governor and non-industry Governor, as set forth in Sections (i) and (ii) above shall be the same persons, and shall be members of both the Equity Allocation, Evaluation and Securities Committee and the Options Allocation, Evaluation and Securities Committee.

(b) Where circumstances warrant, the Committee may determine to consult with the Floor Procedure Committee, Options Committee or Foreign Currency Options Committee.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statement.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to eliminate the requirement that the three core members of the Committees who conduct a public securities business be the same people for both Committees. Rule 500 requires that the three core members of both Committees who conduct a public securities business be the same people. The proposed amendment to Rule 500 would eliminate this requirement and thereby permit the Committees to have core members who conduct a public securities business in options or equities to serve only on the Committee in which they conduct their particular type of securities business.

Each Committee is responsible for appointment of specialist units on the floor; [4] for approving the transfer of equities or options among specialist units on each floor; [5] for allocating equities or options to applicant specialist units on each floor; [6] for evaluating the performance of specialist units on each floor; [7] for reallocating equities or options when warranted due to performance issues from one specialist unit to another; [8] and for supervising over questions pertaining to securities admitted to dealings on the Exchange.[9]

The Exchange believes that by permitting the three core members of both Committees who conduct public securities business to be different people, both Committees should benefit from the specific options or equities industry expertise and experience that those members possess and can bring to each committee. This would serve to provide added expertise on each committee in allocating securities to, and evaluating performance of, specialist units on the trading floor on which the Committee member works and has experience. Currently, the three core members who conduct a public securities business are the same on each Committee regardless of whether their particular experience is limited to either equities or options. Under the proposal, the three core members who conduct a public securities business on the Committees would consist of members with experience specific to the type of securities to be allocated, and in the type of specialists to be evaluated.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6 of the Act [10] in general, and with Sections 6(b)(5) [11] of the Act in particular, because it is designed to perfect the mechanisms of a free and open market and a national market system, to promote just and equitable principles of trade, and to protect investors and the public interest, by organizing the Committees to have core members who conduct a public securities business in options or equities to serve only on the Committee in which they conduct their particular type of securities business, thereby, permitting members with specific industry expertise to be a member of only that particular Committee.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Phlx has neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will;

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–54 and should be submitted by August 1, 2001.

[4] *See* Phlx Rule 510.

[5] *See* Phlx Rule 508.

[6] *See* Phlx Rule 511(b).

[7] *See* Phlx Rules 511(c)–(d) and 515.

[8] *See* Phlx Rules 511(b)–(e) and 515.

[9] *See* Phlx Rules 800–899.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

[12] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–17303 Filed 7–10–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44513; File No. SR–Phlx–2001–22]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Regarding Members' and Member Organizations' Duty To File Form U–5 With the Exchange

July 3, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 17, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the self-regulatory organization (''SRO''). On June 5, 2001, the Exchange filed Amendment No. 1 to the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to amend Exchange Rule 604 (''Registration and Termination of Registered Persons''), paragraphs (b) and (d), to provide that members and member organizations whose Designated Examining Authority (''DEA'') is the Phlx must file Form U–5 (''Uniform Termination Notice for Securities Industry Registration'') with the Phlx. The following is the text of the proposal:

(Italics represents additions; brackets represent deletions.)

* * * * *

Rule 604. Registration and Termination of Registered Persons

(a) Unchanged.

(b) Members and member organizations *whose Designated Examining Authority (''DEA'') is the Exchange* shall immediately file a Form U–5, Uniform Termination Notice for Securities Industry Representatives and/or Agents [to the CRD] *with the Exchange* upon termination of any associated person. *Members and member organizations whose DEA is not the Exchange shall file Form U–5 with the CRD.*

(c) Unchanged.

(d) Every person who is compensated directly or indirectly by a member or participant organization for which the Exchange is the [Designated Examining Authority (''] DEA [''))] for the solicitation or handling of business in securities, including trading securities for the account of the member or participant organization, whether such securities are those dealt in on the Exchange or those dealt in over-the-counter, who is not otherwise required to register with the Exchange by paragraph (a) of this rule or another rule shall file Form U–4, Uniform Application for Securities Industry Registration or Transfer, with the Exchange.

(e) Unchanged.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to provide that members and member organizations whose DEA is the Exchange must file Form U–5, regarding termination of securities industry representatives and/or agents, with the Exchange.[4]

Pursuant to section 17(d) of the Act,[5] the Commission may ''allocate among self-regulatory organizations the authority to adopt rules with respect to matters as to which, in the absence of such allocations, such self-regulatory organizations share authority under this title.'' [6] A DEA is the SRO that is responsible for examining compliance with certain federal securities laws, as well as the SRO's rules.

Currently, Phlx acts as the DEA for approximately 150 of its members and member organizations. As the DEA, Phlx regularly reviews books and records regarding the financial condition of members and member organizations, as well as trading reports and trader registration information. Rule 604(a) requires that all qualified Registered Representatives of Phlx members or participant organizations (and persons conducting functions customarily performed by a Registered Representative) register with the Exchange. Paragraph (d) requires that Form U–4 (''Uniform Application for Securities Industry Registration or Transfer'') be filed with the Exchange by every person who is compensated for certain securities-related business by a member or participant organization whose DEA is Phlx. Currently, the rule requires that Form U–5 be filed with the CRD, with most members and member organizations filing with the Exchange as well. Because the rule is silent on the filing with the Exchange, it is especially important to state expressly in Phlx rules that Form U–5 must be filed with the Exchange. The proposed amendment will state in the rules the requirement that Form U–5 be filed with the Exchange upon termination of the above business relationships. Although the Exchange is presently exploring the possibility to secure a Web CRD connection for its members, it is the Exchange's belief that the proposed rule change is still necessary until such connection becomes available, in order to reflect current practice and to aid in the enforcement of the Form U–5 filing requirements.[7]

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act [8] in general, and furthers the objectives of section 6(b)(5) [9] in particular in that it should promote just and equitable principles of trade, by requiring direct Exchange notification of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Diana Tenenbaum, Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated May 31, 2001 (''Amendment No. 1''). In Amendment No. 1, the Exchange deleted a representation regarding the ability of Phlx members to access Web CRD, and added a sentence explaining the Exchange's current efforts to secure a connection to Web CRD.

[4] The proposed amendment pertains only to members and member organizations whose DEA is the Exchange. The general requirement that termination documentation be filed with the Central Registration Depository (''DRD''), in accordance with the provisions of Rule 604(b), remains in effect for all other members and member organizations.

[5] 15 U.S.C. 78q(d).

[6] 15 U.S.C. 78q(d).

[7] *See* Amendment No. 1, *supra* note 3.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

termination from all members and member organizations for whom the Phlx is the DEA. In addition, the proposed amendment should protect investors and the public interest by providing an efficient and promptly updated source of information—the DEA—regarding representatives or agents of members and member organizations who are no longer empowered to act on the member's behalf. Furthermore, the proposed rule amendment is consistent with the provisions of section 6(b)(7) of the Act,[10] in that it helps provide a fair procedure for terminated persons.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–22 and should be submitted by August 1, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has reviewed carefully the Phlx's proposed rule change and finds, for the reasons set forth below, the proposal is consistent with the requirements of section 6 of the Act[11] and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposal is consistent with section 6(b)(5)[12] because it should ensure that information regarding representatives or agents of members and member organizations for whom the Phlx is the DEA and who are no longer empowered to act on the member's behalf is provided to the Exchange. In this regard, the Commission believes that the proposed rule change will facilitate the Exchange's oversight of its members and member organizations in accordance with its self-regulatory obligations prescribed in the Act.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission believes that it is important to revise the current Exchange rule to require members to file Form U–5 with the Exchange to ensure that, until a link is established with the NASD to allow members for whom the Phlx is the DEA to access Web CRD, these forms continue to be routinely and promptly filed by members. The Commission believes that it is important for the protection of investors that until members can access Web CRD, this information is collected and maintained by the Exchange.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change, as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–17306 Filed 7–10–01; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. 78f(b)(7).

[11] 15 U.S.C. 78f. In approving this rule change, the Commission noted that it has considered the proposal's impact on efficiency, competition, and capital formation, consistent with Section 4 of the Act. *Id.* at 78c(f).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78sf(b)(2).

[14] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–10062]

The National Ballast Water Management Program

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings; request for comments.

SUMMARY: As directed by the National Invasive Species Act of 1996 [NISA], the Coast Guard seeks consultation with all interested and affected parties before making recommendations to Congress on the future of the national Ballast Water Management program. To accomplish this, the Coast Guard will host four regional public meetings to expand the opportunity for public input into the national program. We seek comments from any interested or affected party and encourage all interested parties to attend the meetings.

DATES: The public meetings will be held on the following dates in the cities listed:

West Coast: Oakland, CA—August 28, 2001.

Gulf Coast: Houston, TX—September 6, 2001.

Great Lakes: Ann Arbor, MI—September 11, 2001.

East Coast: Washington, DC—September 18, 2001.

With the exception of the Houston meeting, which will begin at 9:00 a.m., all meetings will begin at 9:30 a.m. and will end when business has been completed. Other comments must reach the Docket Management Facility on or before September 30, 2001.

ADDRESSES: The Coast Guard will hold the meetings at the following locations:

Oakland, CA: Gresham Conference Center, Coast Guard Island, Alameda, CA 94501, 510–437–3573

Houston, TX: Hilton Houston Hobby Airport, 8181 Airport Blvd, Houston, TX 77061, 713–645–3000

Ann Arbor, MI: Holiday Inn, North Campus, 3600 Plymouth Rd, Ann Arbor, MI 48105, 734–769–9800

Washington, DC: Nassif Building, 400 7th Street SW, Rooms 8236—8240, Washington, DC 20590, 202–366–0135

You may submit your comments directly to the Docket Management Facility. To make sure that your comments and related material are not entered more than once in the docket [USCG–2001–10062], please submit them by only one of the following means:

(1) By mail to the Facility, U.S. Department of Transportation, room PL–

401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Facility maintains the public docket for this notice. Comments, and documents as indicated in this notice, will become part of this docket and will be available for inspection or copying at room PL–401, on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, call Lieutenant Junior Grade JoAnne Hanson, Project Manager, Environmental Standards Division, in the Office of Operating & Environmental Standards (G–MSO–4), Coast Guard, telephone 202–267–2079. For questions on viewing, or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to submit comments and related material on the national ballast water management program. If you do so, please include your name and address, identify the docket number [USCG–2001–10062] and give the reasons for each comment. You may submit your comments and material by mail, delivery, fax, or electronic means to the Docket Management Facility at the address under ADDRESSES; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Public Meetings

The Coast Guard encourages interested persons to attend the meetings and present oral comments during the meetings. The meetings are open to members of the public. Please note that the meetings may close early if all business is finished. If you would like to present an oral comment during a meeting, please notify Lieutenant Junior Grade Hanson at the address given under **FOR FURTHER INFORMATION CONTACT** no later than August 17, 2001. If you are unable to attend the meetings, we encourage you to submit comments to the Docket Management Facility as indicated under ADDRESSES, by September 30, 2001.

Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to seek special assistance at the meeting, contact Lieutenant Junior Grade Hanson at the address or phone number under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Background and Purpose

The NISA mandated the Coast Guard to establish a national voluntary ballast water management (BWM) program, which became effective in July 1999. Additionally, the NISA requires the Coast Guard to: report to Congress no later than January 1, 2002, on the level of compliance with the guidelines; assess the effectiveness of the guidelines and standards issued under the national voluntary BWM program in reducing the introduction and spread of aquatic nuisance species by vessels; and begin revising the guidelines and standards as necessary.

The precursor to the NISA, the Nonindigenous Aquatic Nuisance Prevention and Control Act (NANPCA) [Pub. L. 101–646], was enacted by Congress on November 29, 1990, as a means of preventing and controlling the spread of zebra mussels and other aquatic nuisance species (ANS) in coastal and inland waters of the United States, with a particular emphasis on regulating ships entering the Great Lakes ecosystem.

The Coast Guard published a final rule titled ''Ballast Water Management for Vessels Entering the Great Lakes'' in the **Federal Register** on April 8, 1993 [58 FR 18330]. This rule established mandatory BWM procedures for the Great Lakes as detailed in 33 CFR part 151, subpart C. On December 30, 1994, the Coast Guard expanded the mandatory BWM practices to include portions of the Hudson River and amended the regulations in 33 CFR part 151 [59 FR 67632].

The NISA [Pub. L. 104–332] was enacted by Congress on October 26, 1996. This act reauthorized and amended the NANPCA, reemphasizing the significant role that ships' ballast water plays in the introduction and spread of ANS. The Coast Guard published the interim rule, ''Implementation of the National Invasive Species Act of 1996,'' on May 17, 1999 [64 FR 26672]. These regulations expanded BWM to all remaining U.S. waters as follows:

- Requiring operators of vessels entering U.S. waters from outside the Exclusive Economic Zone (EEZ) to submit a BWM report
- Providing recommended BWM practices for operators of vessels entering the waters of the U.S. from beyond the EEZ
- Promoting BWM for operators of all vessels in waters of the U.S.

While the NISA provides that inadequate reporting of BWM practices will lead to a mandatory BWM program, there are presently no federal penalties associated with failing to submit the required BWM reports. Data from the first year since the implementation of the reporting requirement indicates a nationwide compliance of approximately 25%, and preliminary reviews of subsequent months indicate little change. In the absence of federal requirements for BWM, several states have passed ANS legislation and implemented mandatory BWM programs, including mandatory ballast water reporting and associated penalties.

The data gathered through the ballast water reports is being compiled by the Coast Guard and the National Ballast Information Clearinghouse and, combined with comments from the public and the shipping industry, will form the basis of the recommendation by the Secretary of Transportation to Congress about the future of the BWM program. In order to better gather input from the public, the Coast Guard requests comments be submitted to the Docket Management Facility (see details under **ADDRESSES**) and invites interested parties to attend any of the four regional public meetings.

The absence of a quantitative ballast water treatment (BWT) standard is widely viewed as a major impediment to the development, testing and evaluation of BWT technologies that could supplement or replace mid-ocean exchange of ballast water. To address this, the Coast Guard recently published two notices in the **Federal Register**. ''Potential Approaches to Setting Ballast Water Treatment Standards'' requesting comments on approaches to setting, implementing, and enforcing ballast water standards, was published on May

1, 2001 [66 FR 21807]. The second notice, ''Approval for Experimental Shipboard Installations of Ballast Water Treatment Systems'' was published on May 22, 2001 [66 FR 28213] and requests comments on a possible means of providing incentives to further the development and testing of BWT technologies.

Sample Topics for Consideration

In order to focus the discussion about the future of the national BWM program, please consider the following when submitting comments: (NOTE—some of these questions contain redundancies and they are not posed in a sequential fashion.)

1. Should BWM (including mid-ocean exchange of ballast water) be mandatory?

2. Should an exemption be allowed for those situations where a ship's master believes that performing BWM, including exchange, would endanger his vessel, crew and/or passengers? If so, how should the validity of such exemptions be verified?

3. Should there be an exemption from ballast water exchange requirements for those voyages whose routes take them outside the U.S. EEZ but not into waters of at least 2000 meters in depth and 200 miles from land (the prescribed depth of water and distance from land for conducting a mid-ocean exchange)?

4. Should the depth of water required for mid-ocean exchange be reduced to 500 meters, as is contained in the International Maritime Organization's definition of mid-ocean exchange?

5. Should ballast water exchange be permitted in waters less than 200 miles from shore? If so, what parameters should be considered?

6. Should the Coast Guard wait for the development of a BWT standard (a means of measuring the effectiveness of and comparing various ballast water treatments) before implementing mandatory BWM regulations?

7. Should ship type (e. g. passenger, container, bulk) influence regulatory requirements on BWM, and if so, how?

8. If BWM becomes mandatory, should ships constructed before the establishment of a mandatory program be treated differently than those constructed after the program goes into effect? If so, what should the distinctions be?

9. If a mandatory BWM program is developed, should the mandatory reporting requirement still be in effect? If so, what is the most efficient means of obtaining BWM data from vessels? Should BWM information be part of the advance notice of arrivals currently required of vessels arriving in U.S. ports and submitted to the appropriate Coast Guard Captain of the Port, even if this meant providing significantly more information in the advance notice of arrival than is currently required? Or should separate reports continue to be sent to the National Ballast Water Information Clearinghouse, which acts as the Coast Guard's agent for the collection, storage and further processing of these reports?

10. Should ballast water management requirements (including reporting and treatment) be extended to cover coastwise shipping that operates well within the EEZ? What kinds of BWM should coastwise shipping be required to practice?

11. Should there be an exemption from ballast water exchange requirements for those voyages where the vessel is only outside the U.S. EEZ for a minimal length of time? What length of time should be considered minimal?

Dated: July 5, 2001.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–17404 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–u

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–9988]

Towing Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meeting.

SUMMARY: The License Implementation Working Group of the Towing Safety Advisory Committee (TSAC) will meet to discuss and develop the performance criteria to be used with the Towing Officer Assessment Record (TOAR) required in Title 46 Code of Federal Regulation 10.304(h). These performance criteria, when developed, will be announced in the **Federal Register** and made available for review and comment. Sample TOARs were published on May 21, 2001, as part of the Navigation and Vessel Inspection Circular 4–01 (NVIC 4–01) entitled ''Licensing and Manning for Officers of Towing Vessels.'' This NVIC provides guidance on the implementation of a recent interim rule with request for comments published in the **Federal Register** on April 26, 2001 (66 FR 20931; Licensing and Manning for Officers of Towing Vessels, Docket Number: USCG 1999–6224). The NVIC is available on the Internet at *http://www.uscg.mil/hq/g-m/nvic/4_01/n4-01.pdf.* The rulemaking history is also available on the Internet at *http://dms.dot.gov* under the same Docket Number. The meetings are open to the public.

DATES: The Working Group will meet on Wednesday, July 25, 2001, from 1 p.m. to 4 p.m., and on Thursday, July 26, 2001, from 8 a.m. to 3 p.m. These meetings may close early if all business is finished. Requests to make oral presentations should reach the Coast Guard on or before July 23, 2001.

ADDRESSES: The Working Group will meet in room 6103 at Coast Guard Headquarters; 2100 Second Street, SW; Washington, DC 20593–0001. Send written materials and requests to make oral presentations to Mr. Gerald P. Miante, Commandant (G–MSO–1); Room 1210, U.S. Coast Guard Headquarters; 2100 Second Street, SW; Washington, DC 20593–0001. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald P. Miante, Assistant Executive Director, TSAC, telephone 202–267–0229, fax 202–267–4570, or e-mail at: gmiante@comdt.uscg.mil.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The agenda includes the Working Group's review of the TOARs and the drafting of performance criteria proposals that will be presented to the full Committee for approval at a later date.

Procedural

This meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Assistant Executive Director on or before July 23, 2001.

Information on Services for Individuals with Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Assistant Executive Director as soon as possible.

Dated: July 2, 2001.

Joseph J. Angelo,

Acting Assistant Commandant for Marine, Safety and Environmental Protection.

[FR Doc. 01–17390 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–9989]

The Coast Guard's Policy of Consultation and Coordination With Indian Tribal Governments Under Executive Order 13175

AGENCY: Coast Guard, DOT.

ACTION: Notice; request for comments.

SUMMARY: The Coast Guard is requesting general information that will better allow us to implement Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. This Executive Order directs Federal agencies to consult with Indian and Alaska Native tribal governments in the development of regulations that have a substantial direct effect on one or more Indian or Alaska Native tribes, on the relationship between the Federal Government and those tribes, or on the distribution of power and responsibilities between the Federal Government and those tribes. The Coast Guard has queried its internal database and determined its regulations may impact a total of 13 tribal governments. These tribal governments own fishing vessels and passenger vessels. We suspect that there may be more tribal governments impacted by Coast Guard regulations than our database revealed. In order to better carry out our responsibilities under this Executive Order, we need your help in identifying tribes that may be affected by Coast Guard rulemakings, the officials of those tribes, and the procedures needed to ensure meaningful and timely input by tribal officials. Depending on the information received, we may modify our approach and/or policy used to carry out the intent of the Executive Order when we promulgate future rulemakings.

DATES: Comments and related material must reach the Docket Management Facility on or before October 9, 2001.

ADDRESSES: To make sure your comments and related material are not entered in the docket more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, (USCG–2001–9989) U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) By electronic means through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this notice, call Karen Adams, Regulatory Coordinator, Office of Standards Development (G–MSR), Coast Guard, telephone 202–267–6819. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Discussion

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, is intended (1) To establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal regulations that have tribal implications, (2) to strengthen the United States government-to-government relationships with Indian and Alaska Native tribes, and (3) to reduce the imposition of unfunded mandates upon those tribes. A regulation has ''tribal implications'' if it has a substantial direct effect on one or more Indian or Alaska Native tribes, on the relationship between the Federal Government and those tribes, or on the distribution of power and responsibilities between the Federal Government and those tribes. In order to better carry out our responsibilities under this Executive Order, we need your help in identifying tribes that may be affected by Coast Guard rulemakings, the officials of those tribes, and the procedures needed to ensure meaningful and timely input by tribal officials. We invite comments on how Coast Guard rulemakings may impact tribes and tribal governments, even if those impacts may not constitute ''tribal implications'' under the Executive Order. For example, there may be tribal governments in Alaska that own petroleum facilities, which are impacted by Coast Guard regulations. Also, there may be more than the currently identified 13 tribal governments that own fishing vessels and passenger vessels. A copy of Executive Order 13175 is available in the docket on the Internet at *http://dms.dot.gov.*

Request for Comments

Please explain your views clearly and provide copies of any information used to support your views. If you submit comments and related material, please include your name and address, identify the docket number for this notice (USCG–2001–9989), and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility as indicated under **ADDRESSES.** Please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments received during the comment period.

Dated: July 5, 2001.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–17403 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) for extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 26, 2001, pages 21037–21038.

DATES: Comments must be submitted on or before August 10, 2001. A comment to OMB is most effective if OMB

receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Maintenance, Preventive Maintenance, Rebuilding, and Alteration.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0020.

Forms(s) FAA Form 337.

Affected Public: 52,621 certified mechanics, repair stations, and air carriers authorized to perform maintenance, and those pilots authorized to perform and record preventive maintenance.

Abstract: The information collection associated with 14 CFR part 43 is necessary to ensure that maintenance, rebuilding, or alteration of aircraft, aircraft components, etc., is performed by qualified individuals and at proper intervals. Further, maintenance records are essential to ensure that an aircraft is properly maintained and is mechanically safe for flight.

Estimated Annual Burden Hours: 1,432,784 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and always to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on July 5, 2001.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 01–17375 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aging Transport Systems Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aging Transport Systems Rulemaking Advisory Committee (ATSRAC).

DATES: The meeting will be held on July 25 and 26, 2001. On July 25, the meeting time is scheduled from 8:00 a.m. to 5:00 p.m., and on July 26, it is scheduled from 8:00 a.m. to 11:30 a.m.

ADDRESSES: The meeting will be held at the Boeing Customer Services Center, MIC Conference Room, Fifth Floor, Building 11–14 South Tower, 2925 South 112th Street, Seattle, Washignton, 98168.

FOR FURTHER INFORMATION CONTACT: Shirley Stroman, Office of Rulemaking ARM–208, FAA, 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 267–7470; fax (202) 267–5075; or e-mail *shirley.stroman@faa.gov*.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a meeting of the Aging Transport Systems Rulemaking Advisory Committee, which will be held at the Boeing Customer Services Center, MIC Conference Room, Fifth Floor, Building 11–14 South Tower, 2925 South 112th Street, Seattle, Washington, 98168.

The meeting agenda will include review of membership and status reports of task progress for the following ATSTRAC working groups:

- Wire System Certification Requirements.
- Standard Wire Practice Manual (SWPM/ESPM).
- Enhanced Training Program for Wire Systems.
- Enhanced Maintenance Criteria for Systems.

In addition, there will be an overview of the program for Enhanced Airworthiness for Airplane Systems.

Attendance is open to the public but will be limited to the availability of meeting room space. The FAA will arrange teleconferencing for individuals who make their request to participate via teleconference before July 17. Callers from outside the Washington, DC metropolitan area will be responsible for paying long distance charges. We can also provide sign and oral interpretation as well as a listening device if requests are made within 10 calendar days before the meeting. You may arrange for these services by contacting the person listed under the **FOR FURTHER INFORMATION CONTACT** heading of this notice.

The public may present written statements to the Committee at any time by providing 20 copies to the Committee's Executive Director or by bringing the copies to the meeting. Public statements will only be considered if time permits.

Issued in Washington, DC on July 5, 2001.

Ida M. Klepper,

Acting Director, Office of Rulemaking.

[FR Doc. 01–17348 Filed 7–6–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Public Meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS America) will hold a meeting of its Board of Directors on Tuesday, July 31, 2001. The meeting begins at 1:00 p.m. The letter designations that follow each item mean the following: (I) Is an information item; (A) is an action item; (D) is a discussion item. The General Session includes the following items: (1) Welcome & Introductions (I); Consent Agenda: (2) Antitrust Statements (I); (3) Minutes from the June 7, 2001 meetings (I); (4) U.S. DOT Federal Report (I); (5) Coordinating Council Report—Program Advice Letter to U.S. DOT on E–9–1–1 (I); (6) State Chapters Council Report (I); (7) State Chapters Council Report (I); (8) International Affairs Council Report (I); (9) Finance Subcommittee Report (I); (10) Other (I); (11) Review and Approval of Resolution on Trade Association Transition (I/D); (12) Future Activities and Programs of ITS America Councils and Principal Committees (I); (13) 10-Year Program Plan and Research Agenda Presentation and Discussion (I); (14) Board & Executive Committee Meeting Schedules; (15) Other business; (16) Adjournment.

ITS America provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities.

The charter for the utilization of ITS America establishes this organization as an advisory committee under the

Federal Advisory Committee Act (FACA) 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Board of Directors of ITS America will meet on Tuesday, July 31, 2001 from 1 p.m.–5 p.m. Room TBA.

ADDRESSES: Resort Semiahmoo, 9565 Semiahmoo Parkway, Blaine, Washington 98230–9326. Phone: (800) 770–7992 or (360) 318–2000. Web address: *www.semiahmoo.com.*

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS America, 400 Virginia Avenue, SW, Suite 800, Washington, D.C. 20024. Persons needing further information or who request to speak at this meeting should contact Debbie M. Busch at ITS America by telephone at (202) 484–2904 or by FAX at (202) 484–3483. The DOT contact is Kristy Frizzell, FHWA, HOIT, Washington, D.C. 20590, (202) 366–9536. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: July 3, 2001.

Jeffrey Paniati,

Program Manager, ITS Joint Program Office, Department of Transportation.

[FR Doc. 01–17376 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Trinity Industries Incorporated (Docket Number FRA–2001–9486)

The Trinity Industries, Inc. (TII) has petitioned FRA for a permanent waiver of compliance for a new design 100 Ton Seven Unit Articulated Intermodal Ramp Car (Ramp Car) from the requirements provided in title 49 CFR, 231.18, Cars of Special Construction, which states: ''Cars of construction not covered specifically in the foregoing sections in this part, relative to handholds, sill steps, ladders, hand brakes and running boards may be considered as of special construction, but shall have, as nearly as possible, the same complement of handholds, sill steps, ladders, hand brakes, and running boards as are required for cars of the nearest approximate type.''

The nearest approximate type of car for this new design Ramp Car is a flat car, as described in 49 CFR, 231.6, Flat Cars. Specifically, TII is seeking relief of four (4) requirements described below:

Hand Brake Locations, 49 CFR 231.6 (a)(3)(ii) requires that ''The Brake shaft shall be located on the end of car to the left of center, or on side of car not more than 36 inches from right-hand end thereof.'' TII stated that it cannot meet this requirement because two brakes are required to restrain the car, but because of the ramp location at the ''A'' end of the car, a handbrake cannot be located within the required 36 inches from the end of the car. Also, during operation of the ramp for loading and unloading of the car, it will be necessary to apply and release the handbrakes. Accordingly the handbrakes are located as close as possible to the ramp and on the ''B'' end of the ''G'' and ''F'' units;

Sill Step Location, 49 CFR, 231.1(d)(3)(i) requires that ''One near each end of each side of car, so that there shall be not more than 18 inches from end of car to center of tread of sill step.'' TII stated that the sill step is located three (3) feet and four (4) inches, or 40 inches from the end of car. The sill step is essentially cut-out from the side sill. The sill step has a minimum of clearance of two (2) inches. TII stated that the ''A'' end sill steps cannot meet the requirement due to the integral ramp. The sill step is 12 inches wide with an anti-skid surface, and a clear depth of eight (8) inches. A toe guard is also provided.

Side Handholds, 49 CFR 231.6(c)(3)(i) requires that ''Horizontal, one on face of each side sill near each end. Clearance of outer end of handhold shall be not more than 12 inches from end of car.'' TII stated that the handhold is vertical and is located three (3) feet and four (4) inches or 40 inches, from the ''A'' end of the car. The end sill steps cannot meet the requirement due to the integral ramp.

End Handholds, 49 CFR 231.6(d)(3)(i) requires that ''Horizontal, one near each side of each end of car on face of end sill. Clearance of outer end of handhold shall be not more than 16 inches from side of car.'' TII stated that because the ramp is an integral part of the Ramp Car, there is no end sill. Hence a handhold cannot be positioned in a horizontal orientation. Instead, TII proposes four (4) vertical handholds located on both side guards of the two ramps and are used only when the ramps are in the up position.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Docket Number FRA–2001–9486) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, D.C., 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Issued in Washington, D.C. on July 5, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–17377 Filed 7–10–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 592X)]

CSX Transportation, Inc.—Abandonment Exemption—in Clark County, IN

On June 21, 2001, CSX Transportation Inc., (CSXT), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a segment of its Midwest Region railroad line, known as the Louisville Division, Louisville Terminal/Hoosier Subdivision, extending between milepost B–1.3, near Watson, and milepost B–6.7, near Jeffersonville, a distance of approximately 5.4 miles, in Clark County, IN. The line traverses U.S. Postal Service Zip Code 47130 and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by October 9, 2001.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than July 31, 2001. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 592X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) Natalie S. Rosenberg, 500 Water Street, Jacksonville, FL 32202. Replies to the CSXT petition are due on or before July 31, 2001.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: June 29, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–16935 Filed 7–10–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. The OCC is soliciting comment concerning its information collection titled, ''Transfer Agent Registration and Amendment Form—Form TA–1.'' The OCC also gives notice that it has sent the information collection to OMB for review and approval.

DATES: You should submit your comments to the OCC and the OMB Desk Officer by August 10, 2001.

ADDRESSES: You should direct your comments to:

Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0124, 250 E Street, SW, Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov.* You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW, Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

Alexander T. Hunt, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: Transfer Agent Registration and Amendment Form—Form TA–1.

OMB Number: 1557–0124.

Description: Section 17A(c) of the Securities Exchange Act of 1934 (Act), as amended by the Securities Act Amendments of 1975, provides that all those authorized to transfer securities registered under Section 12 of the Act (transfer agents) shall register by filing with the appropriate regulatory agency an application for registration in such form and containing such information and documents as such appropriate regulatory agency may prescribe to be necessary or appropriate, in furtherance of the purposes of this section. Form TA–1 was developed by the OCC, Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve to satisfy this statutory requirement. National bank transfer agents use Form TA–1 to register or amend registration as transfer agents. The OCC uses the information to determine whether to allow, deny, accelerate, or postpone an application. An amendment to Form TA–1 must be filed with the OCC within sixty calendar days following the date on which any information reported on Form TA–1 becomes inaccurate, misleading or incomplete. The OCC also uses the data to more effectively schedule and plan transfer agent examinations. Amendments to Form TA–1 are used by the OCC to schedule and plan examinations. The Securities and Exchange Commission maintains complete files on the registration data of all transfer agents registered, pursuant to the Act. It utilizes the data to identify transfer agents and to facilitate development of rules and standards applicable to all registered transfer agents.

Type of Review: Extension, without change, of OMB approval.

Affected Public: Businesses or other for-profit (national banks).

Estimated Number of Respondents: 50.

Estimated Total Annual Responses: 50.

Frequency of Response: On occasion.

Estimated Time per Respondent: 1.5 hour (Form); 15 minutes (Amendment).

Estimated Total Annual Burden: 25 hours.

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number.

Dated: July 3, 2001.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 01–17251 Filed 7–10–01; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. The OCC is soliciting comment concerning its information collection titled, ''Examination Questionnaire.'' The OCC also gives notice that it has sent the information collection to OMB for review and approval.

DATES: You should submit your comments to the OCC and the OMB Desk Officer by August 10, 2001.

ADDRESSES: You should direct your comments to:

Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0199, 250 E Street, SW, Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov.* You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW, Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

Alexander T. Hunt, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202)874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: Examination Questionnaire.

OMB Number: 1557–0199.

Description: Completed Examination Questionnaires provide the OCC with information needed to properly evaluate the effectiveness of the examination process and agency communications. The OCC will use the information to identify problems or trends that may impair the effectiveness of the examination process, to identify ways to improve its service to the banking industry, and to analyze staff and training needs.

There are two versions of the questionnaire—one for community and mid-size banks and one for large banks. Community and mid-size banks will receive the questionnaire as part of each safety and soundness examination-related activity. Large banks will be invited to provide comments annually.

Type of Review: Extension, without change, of OMB approval.

Affected Public: Businesses or other for-profit (national banks).

Estimated Number of Respondents: 2,300.

Estimated Total Annual Responses: 2,300.

Frequency of Response: On occasion.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden: 575 burden hours.

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number.

Dated: July 3, 2001.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 01–17252 Filed 7–10–01; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0033]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the Federal Register concerning each proposed collection of information, including each proposed reinstatement of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to apply for reinstatement for Government Life Insurance and/or Total Disability Income provision.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 10, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0033'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Reinstatement, (Nonmedical—Comparative Health Statement), Government Life Insurance

and/or Total Disability Income Provision, VA Form 29–353.

OMB Control Number: 2900–0033.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–353 is use to determine an applicant's eligibility to reinstate his/her plan of insurance and/or Total Disability Income Provision.

Affected Public: Individuals or households.

Estimated Annual Burden: 375 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,500.

Dated: June 28, 2001.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 01–17396 Filed 7–10–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0355]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to pay benefits to veterans and other eligible persons pursuing approved programs of education.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 10, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0355'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Verification of Pursuit of Course (Leading to a Standard College Degree Under Chapters 32, 34, and 35, Title 38, U.S.C., and Section 903 of Public Law 96–342), VA Form 22–6553.

OMB Control Number: 2900–0355.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 22–6553 is used to verify continued enrollment or report changes in enrollment status for any student receiving educational benefits for the pursuit of a college course. Schools are required to report, without delay to VA, when a student fails to enroll, has interrupted or terminated a program, or has unsatisfactory progress or conduct. VA uses the information from the current collection to ensure that schools promptly report changes in training and if a student's education benefits are to be continued unchanged, increased, decreased, or terminated. Without this information, VA might underpay or overpay benefits.

Affected Public: State, Local or Tribal Governments, not-for-profit Institutions.

Estimated Annual Burden: 9,333 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: The frequency of responses for each educational institution will vary according to the number of students who receive VA education benefits at that school. VA estimates an annual average of 10 responses per educational institution.

Estimated Number of Respondents: The number of respondents is arrived at based on the average number of educational institutions using VA Form 22–6553 which had veterans or eligible persons enrolled during the last 12 months, and a projected number of trainees. VA currently has an average of 5,600 active educational institutions (colleges, universities, or other institutions of higher learning).

Dated: June 28, 2001.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 01–17397 Filed 7–10–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0585]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Acquisition and Materiel Management (OA&MM), Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Office of Acquisition and Materiel Management, Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 10, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981 or e-mail to: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0585'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Veterans Affairs Acquisition Regulation (VAAR) Clause 852.211–77, Brand Name or Equal (was 852.210–77).

OMB Control Number: 2900–0585.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: VAAR clause 852.211–77, Brand Name or Equal, advises bidders or offerors who are proposing to offer an item that is alleged to be equal to the brand name item stated in the bid, that it is the bidder's or offeror's responsibility to show that the item offered is in fact, equal to the brand name item. This evidence may be in the form of descriptive literature or material, such as cuts, illustrations, drawings, or other information. While submission of the information is voluntary, failure to provide the information may result in rejection of the firm's bid or offer if the Government cannot otherwise determine that the item offered is equal. The contracting officer will use the information to evaluate whether or not the item offered meets the specification requirements.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 27, 2001, at pages 16703 and 16704.

Affected Public: Business or other for profit, individuals or households, and not-for-profit institutions.

Estimated Annual Burden: 833 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 10,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0585'' in any correspondence.

Dated: June 28, 2001.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 01–17394 Filed 7–10–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0588]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Acquisition and Materiel Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Office of Acquisition and Materiel Management, Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 10, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981 or e-mail to: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0588'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Veterans Affairs Acquisition Regulation (VAAR) Provision 852.211–74, Special Notice (previously 852.210–74).

OMB Control Number: 2900–0588.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: VAAR Provision 852.211–74, Special Notice, is used only in VA's telephone system acquisition solicitations and requires the contractor, after award of the contract, to submit descriptive literature on the equipment the contractor intends to furnish to show how that equipment meets specification requirements. The information is needed to ensure that equipment proposed by the contractor meets specification requirements. Failure to require the information could result in the installation of equipment that does not meet contract requirements, with significant loss to the contractor if the contractor subsequently had to remove the equipment and furnish equipment that meets specification requirements.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 11, 2001, at pages 18854–18855.

Affected Public: Business or other for profit, individuals or households, and not-for-profit institutions.

Estimated Annual Burden: 150 hours.

Estimated Average Burden Per Respondent: 5 hours.

Frequency of Response: On occasion.

Estimated Number of Respondents: 30.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0588'' in any correspondence.

Dated: June 28, 2001.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 01–17395 Filed 7–10–01; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 66, No. 133

Wednesday, July 11, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMIITTEE FOR THE IMPLEMENTION OF TEXTILE AGREEMENTS

Announcement of Public Comment Period on the Elimination of Paper Visa Requirement with the Hong Kong Special Administrative Regime of the People's Republic of China (HKSAR)

Correction

In notice, document 01–16590, appearing on page 34914, in the issue of Monday, July 2, 2001, make the following correction:

On page 34914, in the first column, under the heading **SUPPLEMENTARY INFORMATION:** in the fourth paragraph, in the ninth line, ''insert date 60 days from publication'' should read ''August 31, 2001''.

[FR Doc. C1–16590 Filed 7–10–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

National Park Service

Benefits Sharing Environmental Assessment, National Park Service

Correction

In notice document 01–15559 beginning on page 33712 in the issue of Monday, June 25, 2001, make the following corrections:

1. On page 33713, in the first column, in the first paragraph, in the third line, ''when it determined'' should read ''when it is determined''.

2. On the same page, in the same column, in the same paragraph, in the 11th line, ''will be adversely impacted'' should read, ''will not be adversely impacted''.

3. On the same page, in the same column, in the same paragraph, in the third line from the bottom, ''authorizes'' should read ''authorize''.

4. On the same page, in the same column, in the second paragraph, in the fifth line, the internet web address should read ''www.nature.nps.gov/benefitssharing''.

5. On the same page, in the same column, in the same paragraph, in the 12th line, ''National Park Service.'' should read ''National Park Service,''.

6. In the same location, ''Benefit-Sharing'' should read ''Benefits-Sharing''

[FR Doc. C1–15559 Filed 7–10–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2520

RIN 1210–AA69; 1210–AA55

Amendments to Summary Plan Description Regulations

Correction

In the issue of Monday July 2, 2001, on page 34994, in the correction of rule document 00-29765, in the third column, in the correction numbered 1, in the third line, ''e.g'' should read ''e.g. pension plans-''.

In the same column, in the correction numbered 2, in the third and fifth lines, ''cost sharing'' should read ''cost-sharing''.

[FR Doc. C0–29765 Filed 7–10–01; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44467; File No. SR–NASD–2001–38]

Self–Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Listing of Additional Shares

June 22, 2001.

Correction

In notice, document 01–16559, beginning on page 34973, in the issue of Monday, July 2, 2001, make the following correction:

On page 34973, in the third column, the date is added as set forth above.

[FR Doc. C1–16559 Filed 7–10–01; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44470; File No. SR–DTC–2001–10]

Self–Regulatory Organizations: The Depository Trust Company; Notice of Filing and Order Granting Accelerated, Temporary Approval of a Proposed Rule Change to the Admission of Non–U.S. Entities as Direct Depository Participants

June 22, 2001.

Correction

In notice document 01–16558, beginning on page 34972, in the issue of Monday, July 2, 2001, make the following correction:

On page 34972, in the second column, the date is added to read as set forth above.

[FR Doc. C1–16558 Filed 7–10–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
July 11, 2001

Part II

Environmental Protection Agency

40 CFR Part 52

Approval and Promulgation of Implementation Plans; Illinois; Ozone; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL200–1; FRL–7008–9]

Approval and Promulgation of Implementation Plans; Illinois; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the following as revisions to the Illinois State Implementation Plan (SIP) for the Chicago-Gary-Lake County ozone nonattainment area, i.e., for the Illinois portion of this bi-state ozone nonattainment area: an ozone attainment demonstration; a post-1999 ozone Rate-Of-Progress (ROP) plan; a contingency measures plan for both the ozone attainment demonstration and post-1999 ROP plan; a commitment to conduct a mid-course review of the ozone attainment demonstration; mobile source conformity emission budgets for Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_X) and the State's commitment to revise these emission budgets using the MOBILE6 emissions factor model; and, a Reasonably Available Control Measure (RACM) analysis. The EPA is also proposing to revise the existing NO_X emissions control waiver for the Illinois portion of the Chicago-Gary-Lake County ozone nonattainment area to the extent that the State has relied on NO_X emission controls from certain Electrical Generating Units (EGUs), major non-EGU boilers and turbines, and major cement kilns in the nonattainment area to attain the ozone standard. The existing NO_X emissions control waiver remains in place for Reasonably Available Control Technology (RACT), New Source Review (NSR), and certain requirements of vehicle Inspection and Maintenance (I/M) and transportation and general conformity. The EPA is proposing to deny a related citizen petition for the termination of the NSR portion of the NO_X waiver.

DATES: Written comments must be received on or before August 10, 2001.

ADDRESSES: Written comments should be sent to J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittals addressed in this proposed rule and other relevant materials are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604 (please telephone Edward Doty at (312) 886–6057 before visiting the Region 5 office).

FOR FURTHER INFORMATION CONTACT: Edward Doty, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 886–6057, E-Mail Address: doty.edward@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. Whenever ''you'' or ''me'' is used, we mean you the reader of this proposed rule or the sources subject to the requirements of the State plan as discussed in the State's submittal or in this proposed rule.

This section provides additional information by addressing the following topics and questions:

I. What Action Is EPA Proposing Today?

Based on a review of all available information, Clean Air Act (CAA) requirements, and relevant EPA guidance, we are proposing to approve: (1) Illinois' 1-hour ozone attainment demonstration for the Chicago-Gary-Lake County ozone nonattainment area; (2) Illinois' post-1999 ROP plan (an ROP plan covering the time period of November 15, 1999 through November 15, 2007) for the Illinois portion of the Chicago-Gary-Lake County ozone nonattainment area; (3) Illinois' contingency measures plan for both the ozone attainment demonstration and the post-1999 ROP plan; (4) Illinois' commitment to conduct a mid-course review of the ozone attainment demonstration; (5) Illinois' mobile source conformity emission budgets for VOC and NO_X in the Illinois portion of the Chicago-Gary-Lake County ozone nonattainment area; and (6) Illinois' RACM analysis/demonstration for the Illinois portion of the Chicago-Gary-Lake County ozone nonattainment area (the term ''Chicago area'' is used to refer to the Illinois portion of this ozone nonattainment area).

We are proposing to modify an existing NO_X emissions control waiver (the NO_X emissions control waiver has been in place since January 1996) for the Chicago area. The existing NO_X emissions control waiver was based on ozone modeling data showing that NO_X emission reductions in the ozone nonattainment area would not contribute to attainment of the ozone standard in this nonattainment area. Ozone modeling supporting the ozone attainment demonstration addressed in this proposed rule shows that NO_X emission controls on EGUs, major non-EGU boilers and turbines, and major cement kilns in the ozone nonattainment area (and statewide) are beneficial and will contribute to attainment of the 1-hour ozone standard. The attainment demonstration further shows that the ozone standard will be attained by the applicable attainment date without the use of additional NO_X emission controls [1] (beyond other NO_X emission controls already implemented and/or modeled in the ozone attainment demonstration) in the nonattainment area. Consequently, such additional NO_X emission controls are in excess of what is needed to attain the ozone standard.

We are proposing to modify the existing NO_X waiver to remove from the emissions control waiver the EGUs, major non-EGU boilers and turbines, and major cement kilns for which the State included emission controls in the ozone attainment demonstration. Based on the ''excess emissions'' control provisions of section 182(f)(2) of the CAA, however, we are proposing to retain the NO_X waiver for RACT, NSR, and certain requirements of transportation and general conformity, and I/M. [2]

We are proposing to deny a related citizen petition to terminate the NSR portion of the NO_X emissions control waiver for the Chicago area. No data have been submitted or are available showing that the existence of the waiver for NO_X NSR in the Chicago area will prevent the attainment of the 1-hour ozone standard by the November 15, 2007 deadline or will delay attainment of the ozone standard by an earlier date.

II. Background Information

A. What Is a State Implementation Plan (SIP)?

Section 110 of the CAA requires states to develop air pollution control regulations (rules) and strategies to ensure that state air quality meets the National Ambient Air Quality Standards (NAAQS) established by the EPA. Each state must submit the rules and emission control strategies to the EPA for approval and promulgation into a Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its points of origin. The SIPs can be and generally are extensive, containing many state rules or other enforceable documents and supporting information, such as emission inventories, monitoring documentation, and modeled attainment demonstrations.

B. What Is the Federal Approval Process for a SIP?

In order for state rules and emission control strategies to be incorporated into the Federally enforceable SIPs, states must formally adopt the rules and emission control strategies consistent with state and Federal requirements. This process generally includes public notice, public hearings, public comment periods, and formal adoption by state-authorized rulemaking bodies.

Once a state rule or emissions control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and must seek additional public comment regarding our proposed action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action (they are

[1] The additional NO_X emission controls not considered in the ozone attainment demonstration include NO_X RACT, NO_X NSR, and additional mobile source NO_X controls, including vehicle inspection/maintenance (I/M) emission cutpoints.

[2] States with NO_X waivers are still required to prepare motor vehicle emissions budgets consistent with the ozone attainment demonstrations and to use these emissions budgets in conformity analyses.

generally addressed in a final rulemaking action).

All state rules and supporting information approved by the EPA under section 110 of the Act are incorporated into Federally approved SIPs. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, titled ''Approval and Promulgation of Implementation Plans.'' The actual state rules which are approved are not reproduced in their entirety in the CFR, but are ''incorporated by reference,'' which means that EPA has approved the state rules with specific effective dates, has identified the rules in the CFR, and, thereby, has identified the full texts of the rules by reference.

C. What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of a state rule before and after it is incorporated into a Federally approved SIP is primarily a state responsibility. After a rule is Federally approved, however, EPA is authorized under section 113 of the CAA to conduct enforcement actions against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

D. What Are the Options for Action on a State SIP Submittal?

Depending on the circumstances unique to each of the SIP submissions, we may propose one or more of several types of approval, or disapproval in the alternative (or a combination if our rulemaking process involves separable portions of a SIP submission). In addition, these proposals may identify additional state actions that may be necessary by a state before EPA may fully approve the submissions.

The CAA provides for EPA to approve, disapprove, partially approve, or conditionally approve a state's submission. The EPA must fully approve a submission if it meets the requirements of the Act. If a submission is deficient in some way, EPA may disapprove the submission. In the alternative, if portions of the submission are approvable, EPA may partially approve and partially disapprove the submission, or may conditionally approve the submission based on a state's commitment to correct the deficiency by a date certain, not later than one year from the date of EPA's final conditional approval.

The EPA has recognized that, in some limited circumstances, it may be appropriate to issue a full approval for a submission that consists, in part, of an enforceable commitment by the state. Unlike the commitment for a submission correction under a conditional approval, such an enforceable commitment can be enforced in court by EPA or citizens. In addition, this type of commitment may extend beyond one year following EPA's final approval action. Thus, EPA may accept such an enforceable commitment where it is infeasible for the state to accomplish the necessary action(s) in the short term.

E. What Ozone Nonattainment Area Is Addressed by the State Submittal Reviewed in This Proposed Rule?

The December 26, 2000 submittal of the Illinois Environmental Protection Agency (IEPA) reviewed here primarily deals with the attainment of the 1-hour ozone standard in the Chicago area. The Illinois portion of the Chicago-Gary-Lake County ozone nonattainment area includes the counties of Cook, DuPage, Kane, Lake, McHenry, and Will, and the townships of Aux Sable and Goose Lake in Grundy County and Oswego in Kendall County. The Chicago-Gary-Lake County ozone nonattainment area also includes Lake and Porter Counties in Indiana, an Indiana submittal for which is the subject of a separate review and rulemaking.

For purposes of an ozone attainment demonstration, the Chicago-Gary-Lake County ozone nonattainment area is a sub-portion of a larger ozone modeling domain, referred to as Grid M. This ozone modeling domain is further discussed in a later portion of this proposed rule. The State's submission demonstrates that attainment of the 1-hour ozone standard will occur by November 15, 2007 throughout Grid M, including within the Chicago-Gary-Lake County ozone nonattainment area.

F. What Prior EPA Rulemakings Relate to or Led to the State Submittal Reviewed in This Proposed Rule?

On December 16, 1999 (64 FR 70496), we proposed to conditionally approve the 1-hour ozone attainment demonstration for the Chicago area submitted by the IEPA on April 30, 1998. The April 30, 1998 attainment demonstration submittal was based on a range of possible emission control measures (on a number of sets of emission control measures reflecting various emission control alternatives) and did not specify a single set of emission control measures as an adopted emissions control strategy. We based our December 16, 1999 proposed conditional approval on the State's commitment to adopt and submit, by December 31, 2000, a final ozone attainment demonstration SIP revision and a post-1999 ROP plan, including the necessary State-adopted air pollution control rules needed to support and complete the ozone attainment demonstration and post-1999 ROP plan. In the alternative, we proposed to disapprove the attainment demonstration if, by December 31, 1999, the State did not adopt an emissions control strategy as supported by its modeled ozone attainment demonstration and did not submit adequate motor vehicle emission budgets for VOC and NO_X for the Chicago area that comply with EPA's transportation conformity regulations. In addition, we conditioned our approval on the State of Illinois submitting, by December 31, 1999, an enforceable commitment to conduct a mid-course review of the ozone attainment plan in 2003.

The December 16, 1999 proposed rulemaking noted that, if the EPA issued a final conditional approval of the State's April 30, 1998 submission, [3] the conditional approval would revert to a disapproval if the State did not adopt and submit a complete SIP submission with the following elements by December 31, 2000: (1) A final adopted ozone modeling analysis that fully assesses the impacts of regional NO_X emissions reductions, models a specific local emissions reduction strategy, and reconsiders the effectiveness of the existing NO_X emissions control waiver (see the discussion relating to the NO_X emissions control waiver below); (2) adopted emission control measures needed to meet the post-1999 ROP requirements (an ROP plan covering the period of November 15, 1999 through the ozone attainment year); and (3) local VOC and regional NO_X emission control measures sufficient to support the final ozone attainment demonstration. If the State made this complete submission by December 31, 2000, we noted that we would propose action on the new submission for the purpose of determining whether to issue a final full approval of the ozone attainment demonstration.

As noted below, the December 26, 2000 submittal reviewed here, in part, addresses a post-1999 ROP plan for the Chicago area. The post-1999 ROP plan provides required emission reductions in addition to Illinois' 15 percent ROP plan (ROP emission reductions occurring prior to November 15, 1996) and 9 percent post-1996 ROP plan (ROP emission reductions occurring prior to November 15, 1999) for this ozone nonattainment area. On July 14, 1997

[3] To date, the EPA has not issued a final rule conditionally approving the State's April 30, 1998 submittal.

(62 FR 37494), we published a final rule to approve Illinois' 15 percent ROP plan. On December 18, 2000 (65 FR 78961), we published a final rule to approve Illinois' post-1996 ROP plan. These final rules address the emission control measures selected by the State to achieve required ROP emission reductions and address the State's calculation of the 1996 VOC emission target and the 1999 VOC and NO_X emission targets. The December 18, 2000 final rule also addresses the State's adopted contingency measure plan for the post-1996 ROP plan and approves the 1999 motor vehicle emissions budgets associated with the ROP plan for the Chicago area.

The December 26, 2000 submittal reviewed in this proposed rule includes, as part of the ozone attainment demonstration and the post-1999 ROP plan, regional NO_X emission reductions. These regional NO_X emission reductions must be reviewed in light of the fact that a NO_X emissions reduction waiver exists for the Chicago-Gary-Lake County ozone nonattainment area. On January 26, 1996 (61 FR 2428), we published a final rule approving the NO_X emissions control waiver based on a showing that NO_X reductions would not contribute to attainment of the 1-hour ozone NAAQS. Through the January 26, 1996 rulemaking, the EPA granted exemptions from the RACT and NSR requirements for major stationary sources of NO_X and from certain vehicle I/M and general conformity requirements for NO_X in the ozone nonattainment areas in the Lake Michigan Ozone Study modeling domain (the Lake Michigan Ozone Study modeling domain is a sub-portion of Grid M centered on lower Lake Michigan). On February 12, 1996 (61 FR 5291), we published a final rule granting exemption from certain transportation conformity [4] requirements for NO_X in the Chicago area. Consequently, since the NO_X requirements have been waived based on a demonstration that NO_X emission controls in the ozone nonattainment area are not beneficial toward attaining the ozone standard, the State may not receive credit for NO_X emission controls in the ozone nonattainment area toward ROP requirements unless the State can demonstrate the opposite, i.e., that such emission controls are beneficial for attainment of the ozone standard. The State, in its December 26, 2000 submittal, is now demonstrating that certain regional NO_X emission controls (including some controls on EGUs in the Chicago ozone nonattainment area) would contribute toward attainment of the ozone standard [5]. We are proposing, based on the information submitted, to revise the NO_X waiver for the Chicago nonattainment area, as further explained below.

G. What Is the Time Frame for EPA To Take Action on the State Submittal?

As noted above, the EPA is providing a 30 day public comment period for this proposed rule. This comment period is typical for such proposed rules and is critical in this case given the relatively tight time constraints under which the EPA is operating. To meet the time constraints of an existing consent decree between the EPA and the Natural Resources Defense Council, the EPA must complete final rulemaking approving the December 26, 2000 submittal by October 15, 2001 or must publish a proposed Federal Implementation Plan (FIP) for the Chicago area by that date.

H. What Are the Basic Components of the State Submittal and What Are the Subjects Covered in This Proposed Rule?

The December 26, 2000 Illinois submittal reviewed in this proposed rule addresses the following required plan elements: (1) An ozone attainment demonstration for the Chicago-Gary-Lake County ozone nonattainment area and the Grid M modeling domain; (2) the post-1999 ROP plan for the Chicago area; (3) contingency measures for the post-1999 ROP plan and for the ozone attainment demonstration; and (4) motor vehicle transportation conformity emission budgets. Besides these plan elements, this proposed rule addresses the following additional issues: (1) Illinois' commitments for a mid-course review of the ozone attainment demonstration; (2) revisions to the existing NO_X control waiver for the Chicago-Gary-Lake County ozone nonattainment area and a public petition requesting a removal of the NSR portion of the NO_X control waiver; and (3) a RACM analysis for the Chicago area. In this notice we do not respond to the public comments submitted on our December 16, 1999 proposed rule on Illinois' April 30, 1998 ozone attainment demonstration submittal. We will address those comments when we take final action on Illinois' ozone attainment demonstration and other plan elements.

III. Ozone Attainment Demonstration and Emissions Control Strategy

A. Background Information and Requirements Placed on the Ozone Attainment Demonstration

1. What Clean Air Act Requirements Apply to the State's Ozone Attainment Demonstration?

The CAA requires the EPA to establish NAAQS for certain widespread air pollutants that cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare. Clean Air Act sections 108 and 109. In 1979, EPA promulgated the 1-hour ozone standard at a level of 0.12 parts per million (ppm) (120 parts per billion [ppb]). 44 FR 8202 (February 8, 1979). Ground-level ozone is not emitted directly by sources. Rather, emissions of NO_X and VOC react in the presence of sunlight to form ground-level ozone and other secondary pollutants. NO_X and VOC are referred to as precursors of ozone. Control of VOC and NO_X emissions is addressed in ozone control strategies to reduce peak ozone levels.

An area exceeds the 1-hour ozone standard each day in which an ambient air quality monitor records an 1-hour average ozone concentration above 0.124 ppm. An area violates the ozone standard if, over a consecutive 3-year period, more than 3 daily exceedances are recorded or are expected to occur at any monitor in the area or in its immediate downwind environs. The highest of the fourth-high daily peak ozone concentrations over the 3-year period at any monitoring site in the area is called the ozone design value for the area. The CAA required the EPA to designate as nonattainment any area that was violating the 1-hour ozone standard, generally based on the air quality monitoring data for the 3 year period from 1987 through 1989. Clean Air Act section 107(d)(4); 56 FR 56694 (November 6, 1991). The CAA further classified these areas, based on the areas' ozone design values, as marginal, moderate, serious, severe, or extreme. Clean Air Act section 181(a). Marginal nonattainment areas were suffering the least significant air quality problems and extreme nonattainment areas had the most significant air quality problems.

[4] The NO_X waiver does not include an exemption from the need for the States to adopt mobile source NO_X emission budgets for the Chicago-Gary-Lake County ozone nonattainment area to support transportation and general confomity reviews. After the State has submitted and EPA has approved a motor vehicle NO_X emissions budget to be used for conformity purposes, the NO_X waiver is no longer applicable for transportation or general conformity as the State must consider the NO_X emissions budget when making conformity determinations.

[5] Statewide NO_X emission controls on major non-EGU boilers and turbines and major cement kilns were also considered in the ozone attainment demonstration, but specific controls on NO_X sources for these source categories were not identified for the Chicago area.

The control requirements and date by which attainment of the 1-hour ozone standard needs to be achieved vary with an area's classification. Marginal areas are subject to the fewest mandated control requirements and have the earliest ozone attainment date. Moderate, serious, severe, and extreme ozone nonattainment areas are subject to more stringent planning and control requirements but are provided more time to attain the standard. Serious nonattainment areas were required to attain the 1-hour ozone standard by November 15, 1999, and severe ozone nonattainment areas are required to attain the ozone standard by November 15, 2005 or November 15, 2007 depending on the areas' ozone design values. The Chicago-Gary-Lake County ozone nonattainment area is classified as severe-17 and its attainment date is November 15, 2007.

Under sections 182(c)(2) and 182(d) of the CAA, states with serious or severe ozone nonattainment areas were required to submit, by November 15, 1994, demonstrations of how the nonattainment areas would attain the 1-hour ozone standard and how they would achieve ROP reductions in VOC emissions of 9 percent for each 3-year period until the attainment date. In some cases, NO_X emission reductions can be substituted for the required VOC emission reductions to achieve ROP.

2. What Is the History of the State's Ozone Attainment Demonstration and How Is It Related to EPA's NO_X SIP Call?

Notwithstanding significant efforts by the states, in 1995 EPA recognized that many states in the eastern half of the United States could not meet the November 15, 1994 time frame for submitting attainment demonstration SIP revisions because emissions of NO_X and VOC in upwind states (and the ozone formed by these emissions) affected these nonattainment areas and the full impact of this effect had not yet been determined. This phenomenon is called ozone transport.

On March 2, 1995, Mary D. Nichols, EPA's then Assistant Administrator for Air and Radiation, issued a memorandum to EPA's Regional Administrators acknowledging the efforts made by states but noting the remaining difficulties in making attainment demonstration SIP submittals.[6] Recognizing the problems created by ozone transport, the March 2, 1995 memorandum called for a collaborative process among the states of the eastern half of the country to evaluate and address transport of ozone and its precursors. This memorandum led to the formation of the Ozone Transport Assessment Group (OTAG)[7] and provided for the states to submit the attainment demonstration SIPs based on the expected time frame for OTAG to complete its evaluation of ozone transport and to take into consideration the OTAG ozone modeling results.

In June 1997, OTAG completed its process. OTAG submitted to EPA the results of its technical air quality modeling efforts, which quantified the impact of the transport of ozone and its precursors. OTAG recommended consideration of a range of regional NO_X emission control measures.

In recognition of the length of the OTAG process, in a December 29, 1997 memorandum, Richard Wilson, EPA's then Acting Assistant Administrator for Air and Radiation, provided until April 1998 for states to submit the following elements of their attainment demonstration SIPs for serious and severe nonattainment areas: (a) Evidence that the applicable emission control measures in subpart 2 of part D of title I of the CAA were adopted and implemented or were on an expeditious course to being adopted and implemented; (b) lists of measures needed to meet the remaining ROP emissions reduction requirements and to reach attainment; (c) for severe areas only, a commitment to adopt and submit the emission control measures necessary for attainment and the ROP plans through the attainment year by the end of 2000;[8] (d) commitments to implement the SIP control programs in a timely manner to meet ROP emission reduction milestone targets and to achieve attainment of the ozone standard; and (e) evidence of a public hearing on each state's submittal.[9] This submission is sometimes referred to as the Phase II submission. Motor vehicle emission budgets can be established based on a commitment to adopt the measures needed for attainment and identification of the measures needed. Thus, state submissions due in April 1998, under the Wilson policy, should have also included motor vehicle emissions budgets.

Building upon the OTAG recommendations and technical analyses, in November 1997, EPA proposed action addressing the ozone transport problem. In its proposal, the EPA found that current SIPs in 22 states and the District of Columbia (23 jurisdictions) did not meet the requirements of section 110(a)(2)(D) of the CAA because they did not adequately regulate statewide NO_X emissions that significantly contribute to ozone nonattainment in downwind states. 62 FR 60318 (November 7, 1997). The EPA finalized that rule in September 1998, calling on the 23 jurisdictions to revise their SIPs to require NO_X emission reductions within each jurisdiction to a level consistent with a NO_X emission budget identified in the final rule. 63 FR 57356 (October 27, 1998). The final rule is commonly referred to as the NO_X SIP Call.

3. What Are the Modeling Requirements for the Ozone Attainment Demonstrations?

The EPA provides that states may rely on a modeled attainment demonstration supplemented with additional evidence to demonstrate attainment of the ozone standard.[10] In order to have complete ozone modeling attainment demonstration submissions, states should have submitted the required modeling analyses and identified any additional evidence that EPA should consider in evaluating whether areas will attain the ozone standard.

For the purposes of demonstrating attainment of the ozone standard, the CAA (section 182(c)(2)(A)) requires states with serious and severe ozone nonattainment areas to use photochemical dispersion modeling or an analysis method EPA determines to be as effective to assess the adequacy of emission control strategies and to demonstrate attainment of the ozone standard. The photochemical dispersion modeling system is set up using

[6] Memorandum, ''Ozone Attainment Demonstrations,'' issued March 2, 1995. A copy of the memorandum may be found on EPA's web site at http://www.epa.gov/ttn/oarpg/t1pgm.html.

[7] Letter from Mary A. Gade, Director, State of Illinois Environmental Protection Agency, to the members of the Environmental Council of States (EOCS), dated April 13, 1995.

[8] In general, a commitment for severe areas to adopt by December 2000 the control measures necessary for attainment and ROP through the attainment year applies to any additional measures necessary for attainment that were not otherwise required to be submitted earlier. This memorandum was not intended to allow states to delay submission of measures required under the Clean Air Act.

[9] Memorandum, ''Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM 10 NAAQS,'' issued December 29, 1997. A copy of this memorandum may be found on EPA's web site at http://www.epa.gov/ttn/oarpg/t1pgm.html.

[10] The EPA issued guidance on air quality modeling that is used to demonstrate attainment of the 1-hour ozone NAAQS. See U.S. EPA (1991), Guideline for Regulatory Application of the Urban Airshed Model, EPA–450/4–91–013 (July 1991). A copy may be found on EPA's web site at http://www.epa.gov/ttn/scram/ (file name: ''UAMREG''). See also U.S. EPA (1996), Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, EPA–454/B–95–007 (June 1996). A copy may be found on EPA's web site at http://www.epa.gov/ttn/scram/ (file name: ''03TEST'').

observed meteorological conditions conducive to the formation of ozone. The meteorological conditions are selected based on historical data for high ozone periods in the nonattainment area or in its associated modeling domain. Emissions for a base year and monitored ozone and ozone precursor concentrations are used to evaluate the modeling system's ability to reproduce actual monitored air quality values (ozone and other associated pollutants). Following validation of the modeling system for the base year, emissions are projected to an attainment year and modeled in the photochemical modeling system to predict air quality levels in the attainment year. Projected emission changes include source emissions growth up to the attainment year and emission controls implemented by the attainment year.

A modeling domain is chosen that encompasses the ozone nonattainment area and surrounding upwind and downwind areas. Attainment of the ozone standard is demonstrated when all predicted ozone concentrations in the attainment year in the modeling domain are at or below the ozone NAAQS or at an acceptable upper limit above the NAAQS permitted under certain conditions as explained in EPA's guidance. An optional Weight-Of-Evidence (WOE) determination may be used to address uncertainty inherent in the application of photochemical grid models. See the discussion of possible WOE determination tests and analyses below.

The EPA guidance identifies the features of a modeling analysis that are essential to obtain credible results. First, the State must develop and implement a modeling protocol. The modeling protocol describes the methods and procedures to be used in conducting the modeling analyses and provides for policy oversight and technical review by individuals responsible for developing or assessing the attainment demonstration (state and local agencies, EPA regional offices, the regulated community, and public interest groups). Second, for purposes of developing the information to put into the model, the state must select historical high ozone days (days with ozone concentrations exceeding the ozone standard) that are representative of the ozone pollution problem for the nonattainment area. Third, the state needs to identify the appropriate dimensions of the area to be modeled, i.e., the modeling domain size. The modeling domain should be larger than the designated ozone nonattainment area to reduce uncertainty in the nonattainment area boundary conditions and should include any large upwind sources just outside of the ozone nonattainment area. In general, the modeling domain is considered to be the area where control measures are most beneficial to bring the area into attainment of the ozone NAAQS. Fourth, the state needs to determine the modeling grid resolution (the modeling domain is divided into a three-dimensional grid). The horizontal and vertical resolutions in the modeling domain affect the modeled dispersion and transport of emission plumes. Artificially large grid cells (too few vertical layers and horizontal grids) may artificially dilute pollutant concentrations and may not properly consider impacts of complex terrain, meteorology, and land/water interfaces. Fifth, the state needs to generate meteorological data and emissions that describe atmospheric conditions and inputs reflective of the selected high ozone days. Finally, the state needs to verify that the modeling system is properly simulating the chemistry and atmospheric conditions through diagnostic analyses and model performance tests (generally referred to as model validation). Once these steps are satisfactorily completed, the model is ready to be used to generate air quality estimates, to evaluate emission control strategies, and to support an ozone attainment demonstration.

The modeled attainment test compares model-predicted 1-hour daily maximum ozone concentrations in all grid cells for the attainment year (2007 for the Chicago-Gary-Lake County ozone nonattainment area), with all selected emission control measures in place, to the level of the ozone NAAQS. A predicted peak ozone concentration above 0.124 ppm (124 ppb) indicates that the area may exceed the ozone standard in the attainment year under the tested base year conditions and that the tested emissions control strategy may be inadequate to attain the ozone standard. This type of test is referred to as an exceedance test. EPA's guidance recommends that states use either of two modeled attainment or exceedance tests for the ozone attainment demonstration, a deterministic test or a statistical test.

The deterministic test requires a state to compare predicted 1-hour daily maximum ozone concentrations for each modeled day [11] to the attainment level of 0.124 ppm. If none of the predictions exceed 0.124 ppm, the test is passed.

[11] The initial, ''ramp-up'' day for each modeled high ozone episode is excluded from this determination.

The statistical test takes into account the fact that the 1-hour ozone NAAQS allows exceedances. If, over a 3-year period, an area has an average of 1 or fewer daily exceedances per year at any monitoring site, the area is not violating the ozone standard. Thus, if the state models an extreme day, considering meteorological conditions that are very conducive to high ozone levels, the statistical test provides that a prediction of an 1-hour ozone concentration above 0.124 ppm up to a certain upper limit may be consistent with attainment of the standard.

The acceptable upper limit for modeled peak ozone concentrations in the statistical test is determined by examining the levels of ozone standard exceedances at monitoring sites which meet the 1-hour ozone NAAQS. For example, a monitoring site for which the four highest 1-hour average ozone concentrations over a 3-year period are 0.136 ppm, 0.130 ppm, 0.128 ppm, and 0.122 ppm is attaining the standard. To identify an acceptable upper limit, the statistical likelihood of observing ozone air quality exceedances of the standard of various concentrations is equated to the relative severity of the modeled day. The upper limit generally represents the maximum ozone concentration observed at a location on a single day, and would be the only ozone reading above the standard that would be expected to occur no more than an average of once a year over a 3-year period. Therefore, if the maximum ozone concentration predicted by the model is below the acceptable upper limit, in this case 0.136 ppm, then EPA might conclude that the modeled attainment test is passed. Generally, exceedances well above 0.124 ppm are very unusual at monitoring sites meeting the ozone NAAQS. Thus, these upper limits are rarely substantially higher than the attainment level of 0.124 ppm.

4. What Additional Analyses May Be Considered When the Ozone Modeling Fails To Show Attainment of the Ozone Standard?

When the ozone modeling does not conclusively demonstrate attainment of the ozone standard through either a deterministic test or a statistical test, additional analyses may be presented to help determine whether the area nevertheless will attain the standard. As with other predictive tools, there are inherent uncertainties in some of the photochemical modeling inputs, such as the meteorological and emissions data bases for individual days and in the methodology used to assess the severity of an exceedance at individual sites. EPA's guidance recognizes these

limitations, and provides a means for considering other evidence to help assess whether attainment of the NAAQS is likely. The process by which this is done is the WOE determination.[12]

Under a WOE determination, a state can rely on and EPA will consider factors such as: Other modeled attainment tests, e.g., a rollback analysis; other modeled outputs, e.g., changes in the predicted frequency and pervasiveness of ozone standard exceedances and predicted changes in an area's ozone design value; actual observed air quality trends; estimated emissions trends; analyses of air quality monitoring data; the responsiveness of the model predictions to further emission controls; and, whether there are additional emission control—measures that are or will be approved into the SIP but that were not included in the ozone modeling analysis. This list is not an exhaustive list of factors that may be considered, and the factors considered could vary from case to case. EPA's guidance contains no limit on how close a modeled attainment test (a deterministic test or a statistical test) must be to passing to conclude that other evidence besides an attainment test is sufficiently compelling to suggest attainment. The further a modeled attainment test is from being passed, however, the more compelling the WOE determination needs to be.

EPA's 1996 modeling guidance also recognizes a need to perform a mid-course review as a means for addressing uncertainty in the modeling results, particularly if a WOE determination is needed to support an ozone attainment demonstration. Because of the uncertainty in long-term projections, EPA believes a viable attainment demonstration that relies on a WOE determination needs to contain provisions for periodic review of monitoring, emissions, and modeling data to assess the extent to which refinements to emission control measures are needed. The mid-course review is further discussed below.

[12] States may choose to submit WOE determinations even when the ozone modeling results pass either the deterministic test or the statistical test. This may be done to support the attainment demonstration, recognizing that the ozone modeling results possess a certain degree of uncertainty. Nonetheless, the submittal of WOE determinations is only needed if the ozone modeling fails to demonstrate attainment of the ozone standard through either a deterministics test or a statistical test.

5. Besides the Modeled Attainment Demonstration and Adopted Emission Control Strategy, What Other Elements Must Be Addressed in the Attainment Demonstration SIP?

In addition to the modeling analysis and WOE determination supporting the attainment demonstration, the EPA has identified the following key elements which must also be adopted by the state and approved by the EPA in order for EPA to approve the 1-hour ozone attainment demonstration SIPs.

a. *Clean Air Act Measures, and Other Measures Relied on in the Modeled Attainment Demonstration.* This includes adopted and submitted rules for all Clean Air Act required measures for the specific area classification. This also includes measures that may not be required given the area's ozone classification but that the state relied on in its attainment demonstration or in its ROP plan.

The state should have adopted the emission control measures required under the CAA for the area's ozone nonattainment classification. In addition, states with severe ozone nonattainment areas had until December 2000 to adopt and submit additional emission control measures needed to achieve ROP through the attainment year and to attain the ozone standard. For purposes of fully approving a state's SIP, the state needs to adopt and submit rules for all VOC and NO_X controls within the ozone modeling domain and within the state that are relied on to support the modeled ozone attainment demonstration.

Table I presents a summary of the CAA requirements that need to be met for each severe ozone nonattainment area. These requirements are specified in section 182 of the CAA. Information on more measures that states may have adopted or relied on in their current SIP submissions is not shown in the table.

TABLE I.—CAA REQUIREMENTS FOR SEVERE OZONE NONATTAINMENT AREAS

- NSR Requirements for VOC and NO_X, Including an Offset Ratio of 1.3:1 and a Major Source VOC and NO_X Emissions Threshold of 25 Tons Per Year[13].
- RACT for VOC and NO_X[14].
- Enhanced Vehicle I/M.
- 15 percent VOC control plan for ROP through 1996.
- 3 percent VOC/ NO_X Reduction Per Year Through the Ozone Standard Attainment Year for ROP[15]
- RACM.
- Contingency Measures.
- Base Year Emissions Inventory.
- Emission Statement Rules Requiring Sources to Periodically Submit Summaries of Their VOC and NO_X Emissions.
- Ozone Attainment Demonstration.
- Clean Fuels Fleet Program.
- Enhanced Ambient Monitoring (Photochemical Assessment Monitoring System [PAMS]).
- Stage II Gasoline Vapor Recovery At Retail Service Stations.
- Reformulated Gasoline.
- Measures to Offset Growth in Vehicle Miles Tranvelled (VMT).

b. *NO_X Reductions Affecting Boundary Conditions.* EPA completed final rulemaking on the NO_X SIP Call on October 27, 1998, requiring states to address transport of NO_X and ozone to other states. To address transport, the NO_X SIP Call established state-specific emission budgets for NO_X that 23 jurisdictions were required to meet through enforceable SIP emission control measures adopted and submitted by September 30, 1999. The NO_X SIP Call is intended to reduce emissions in upwind states that significantly contribute to downwind ozone nonattainment problems. The EPA did not identify specific NO_X sources that the states must regulate nor did the EPA limit the states' choices regarding where within the states to achieve the emission reductions.

On May 25, 1999, the U.S. Court of Appeals for the District of Columbia issued an order staying the SIP submission requirement of the NO_X SIP Call. On March 3, 2000, the Court issued its decision, which largely upheld EPA's final NO_X SIP Call rule, with certain exceptions that do not affect this proposed rule. On June 23, 2000, the Court lifted the stay. On August 30, 2000, the Court issued an order providing that EPA could not require SIPs to include a source control implementation date earlier than May 31, 2004.

Emission reductions that will be achieved through EPA's NO_X SIP Call

[13] The NO_X NSR requirements do not currently apply in the Chicago area based on a NO_X waiver granted to Illinois on January 26, 1996 (61 FR 2428).

[14] The NO_X RACT requirements do not currently apply in the Chicago area based on a NO_X waiver granted to Illinois on January 26, 1996 (61 FR 2428).

[15] To provide interim progress, EPA accepted 9 percent VOC/ NO_X emission reduction plans to cover ROP requirements between 1996 and 1999. The States with severe nonattainment areas were required to meet the remainder (post-1999) of the ROP requirements through the submittal of a final ROP plan with adopted emission control regulations by December 2000. The Illinois post-1999 ROP plan is reviewed later in this proposed rule.

will reduce the levels of ozone and ozone precursors entering ozone nonattainment areas and ozone modeling domains at their boundaries and will reduce the NO_X emissions generated within the ozone modeling domains. The ozone levels at the boundary of the local modeling domain are reflected in modeled attainment demonstrations and are, along with the concentrations of pollutants entering the modeling domain, referred to as boundary conditions. The boundary conditions and the ozone generated and transported within the modeling domain will be impacted by the NO_X emission reductions resulting from the NO_X SIP Call in many areas. Therefore, EPA believes it is appropriate to allow states to continue to assume the NO_X emission reductions resulting from the NO_X SIP Call in areas outside of the local ozone modeling domains. If states assume emission reductions other than those of the NO_X SIP Call within their states but outside of the ozone modeling domains, the states must also adopt emission control regulations to achieve those additional emission reductions in order to have an approvable ozone attainment demonstration. States subject to the NO_X SIP Call, particularly those relying on the NO_X SIP Call-based emission reductions as part of their ozone attainment demonstrations, are expected to have adopted the NO_X emission control regulations needed to comply with the NO_X SIP Call. In these areas, approval of the ozone attainment demonstration is dependent on the approval of the NO_X emission control regulations.

As provided above, any emission controls assumed by a state within a local ozone modeling domain must be adopted by the state and approved by us to achieve our final approval of the state's 1-hour ozone attainment demonstration SIP.

c. *Motor Vehicle Emissions Budget.* The EPA believes that attainment demonstration and ROP SIPs must necessarily estimate the motor vehicle VOC and NO_X emissions that will be produced in the attainment and milestone years and must demonstrate that these emissions, when considered with emissions from all other sources, is consistent with attainment of the ozone standard and ROP. The estimate of motor vehicle emissions is used to determine the conformity of transportation plans and programs to the SIP, as described by section 176(c)(2)(A) of the Act. For transportation conformity purposes, the estimate of motor vehicle emissions is known as the motor vehicle emissions budget. EPA believes that appropriately identified motor vehicle emissions budgets are a necessary part of attainment demonstration and ROP SIPs, and that EPA must find these budgets to be adequate before we can give final approval to the attainment demonstration and ROP SIPs.

d. *Mid-Course Review.* An enforceable commitment to conduct a mid-course review (MCR) and evaluation of the attainment demonstration based on air quality and emissions trends at some time prior to the attainment year must be included in the attainment demonstration SIP before it can be approved by the EPA, particularly if the SIP depends on a WOE determination to demonstrate attainment of the ozone standard. The MCR shows whether the adopted emission control measures and emissions control strategy (all measures combined into a single plan) are sufficient in timing and extent to reach attainment of the ozone standard by the area's attainment deadline, or whether additional emission control measures may be necessary.

A MCR is a reassessment of the modeling analyses and more recent monitoring and emissions data to determine if a prescribed emissions control strategy is resulting in emission reductions and air quality improvements needed to attain the ozone standard as expeditiously as practicable but no later than the statutory attainment date. The EPA believes that an enforceable commitment to perform a MCR is a critical element of a WOE determination.

For severe areas, such as the Chicago-Gary-Lake County ozone nonattainment area, the state(s) must submit an enforceable commitment (Illinois has submitted such a commitment as discussed below). The commitment must provide the date by which the MCR will be completed. The EPA believes that the MCR process should be done immediately following the ozone season (April through October in Illinois) in which the states have implemented the NO_X regulations resulting from the NO_X SIP Call and that the states should submit the results to us by the end of that calendar year. Because the Court of Appeals ordered that EPA cannot require states to establish a NO_X source compliance date prior to May 31, 2004, EPA believes that the MCR should be performed following the 2004 ozone season and that the results should be submitted by the end of 2004.

Following submittal of MCR analysis results, we would review the results and determine whether the state(s) needs to adopt and submit additional emission control measures for purposes of attainment. We are not requesting that states commit now to adopt new emission control measures as a result of this process. It would be impractical for the states to make a commitment for such control measures that is specific enough to be considered enforceable. Moreover, the MCR could indicate that upwind states may need to adopt some or all of the additional emission controls needed to ensure that a downwind state/area attains the ozone standard. We would determine whether additional emission controls are needed in the state in which a nonattainment area is located or in upwind states, or in both. We would require the appropriate state(s) to adopt and submit new emission control measures within a period specified at that time. We anticipate that these findings would be made as SIP Calls under section 110(k)(5) of the Act and, therefore, the period for the submission of the measures would be no longer than 18 months after we make a finding. A guidance document regarding the MCR process is located on EPA's web site at *http://www.epa.gov/ttn/scram.* The EPA is working on additional guidance that it expects to issue and put on its website shortly.

6. What Are the Relevant EPA Policy and Guidance Documents?

The relevant policy documents for ozone attainment demonstrations and their locations on EPA's web site are listed below:

a. U.S. EPA, *Guideline for Regulatory Application of the Urban Airshed Model,* EPA–450/4–91–013, (July 1991), Web site: http://www.epa.gov/ttn/scram/ (file name: ''UAMREG'').

b. U.S. EPA, *Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS,* EPA–454/B–95–007, (June 1996), Web site: http://www.epa.gov/ttn/scram/ (file name: ''O3TEST'').

c. Memorandum, ''Ozone Attainment Demonstrations,'' from Mary D. Nichols, issued March 2, 1995, Web site: http://www.epa.gov/ttn/oarpg/t1pgm.html.

d. Memorandum, ''Extension of Attainment Dates for Downwind Transport Areas,'' issued July 16, 1998, Web site: http://www.epa.gov/ttn/oarpg/t1pgm.html.

e. Memorandum, ''Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM_{10} NAAQS,'' from Richard Wilson, issued December 29, 1997, Web site: http://www.epa.gov/ttn/oarpg/t1pgm.html.

f. ''Guidance for Improving Weight of Evidence Through Identification of

Additional Emission Reductions, Not Modeled,'' U.S. EPA, Office of Air Quality Planning and Standards, November 1999, Web site: *http://www.epa.gov/ttn/scram/* (file name: ''ADDWOE1H'').

g. ''Serious and Severe Ozone Nonattainment Areas: Information on Emissions, Control Measures Adopted or Planned and Other Available Control Measures,'' Draft Report, U.S. EPA, Ozone Policy and Strategies Group, November 3, 1999.

h. Memorandum, ''Guidance on Motor Vehicle Emissions Budgets in 1-hour Attainment Demonstrations,'' from Merrylin Zaw-Mon, Office of Mobile Sources, November 3, 1999, Web site: http://www.epa.gov/oms/transp/traqconf.htm.

i. Memorandum, ''1-Hour Ozone Attainment Demonstrations and Tier 2/Sulfur Rulemaking,'' from Lydia Wegman and Merrylin Zaw-Mon, Office of Air Quality Planning and Standards and Office of Mobile Sources, November 8, 1999, Web site: http://www.epa.gov/oms/transp/traqconf.htm.

j. Draft Memorandum, ''1-Hour Ozone NAAQS-Mid-Course Review Guidance,'' from John Seitz, Director, Office of Air Quality Planning and Standards, Web site: http://www.epa.gov/ttn/scram/.

B. Technical Review of the State's Submittal

1. When Was the Attainment Demonstration Addressed in Public Hearings, and When Was the Attainment Demonstration Submitted to the EPA?

The State of Illinois held a public hearing on the ozone attainment demonstration on November 8, 2000. The attainment demonstration was submitted by the Illinois Environmental Protection Agency (IEPA) on December 26, 2000.

2. What Are the Basic Components of the Submittal?

Since Illinois, along with Indiana, Michigan, and Wisconsin, jointly participates in the Lake Michigan Air Directors Consortium (LADCO) and since LADCO has conducted the ozone analyses used to develop the ozone attainment demonstration, technical support documents developed by LADCO form the main bases for Illinois' ozone attainment demonstration. Three documents from LADCO provide much of the technical support for the attainment demonstration. These documents are:

a. ''Midwest Subregional Modeling: 1-Hour Attainment Demonstration for Lake Michigan Area—Summary,'' LADCO, September 18, 2000;

b. ''Technical Support Document—Midwest Subregional Modeling: 1-Hour Attainment Demonstration for Lake Michigan Area,'' LADCO, September 18, 2000; and

c. ''Technical Support Document—Midwest Subregional Modeling: Emissions Inventory,'' LADCO, September 27, 2000.

Illinois, like Indiana and Wisconsin, has included a state-specific cover letter and a state-specific synopsis of the ozone attainment demonstration. Illinois has also included additional modeling analysis results to address emissions changes not addressed in the earlier LADCO analyses. These emission changes include increased state-wide NO_X and VOC emissions due to the permitting and implementation of new combustion turbine generators (peakers or peaker plants and combined cycle facilities) designed to supplement electrical power generation on high demand days (many high electricity demand days are potentially high ozone days due to high ambient temperatures) and to replace the electrical generating capacity of electrical—generating facilities taken off-line. Additional VOC and NO_X emissions due to higher-than-planned vehicle miles of travel in the planning area are also considered.

A number of other related submittal components are discussed in later sections of this proposed rule. This section deals exclusively with the technical aspects of Illinois' 1-hour ozone attainment demonstration, focusing on the ozone modeling results and supporting air quality and emissions analyses.

3. What Modeling Approach Was Used in the Analyses To Develop and Validate the Ozone Modeling System?

The LADCO States, as participants in the Lake Michigan Ozone Study (designed to establish the modeling system and its base input data and to validate the modeling system) and in the Lake Michigan Ozone Control Program (designed to select and test possible emission control strategies), used the same modeling approach to develop the basis for each State's ozone attainment demonstration although each State selected a different emissions control strategy for their respective ozone attainment demonstration. The modeling approach is documented in LADCO's September 18, 2000 Technical Support Document (TSD) and is summarized in LADCO's September 18, 2000 modeling summary (see above).

The heart of the modeling system is the Urban Airshed Model–Version V (UAM–V) photochemical dispersion model developed originally for specific application in the Lake Michigan area. This is the same version of the model that was used during the OTAG analysis of ozone transport and ozone transport control measures.

For purposes of the local ozone attainment demonstration, UAM–V was applied to a local modeling domain and grid configuration that was established based on consideration of areas of high ozone concentrations (generally the ozone nonattainment areas) in the Lake Michigan States and of possible upwind source areas impacting these high concentration areas. The primary modeling domain is referred to as Grid M. This grid extends east to the most eastern portion of Michigan (and to central Ohio, eastern Kentucky, and eastern Tennessee); north to the northern end of Michigan's Lower Penninsula (and to the north of Green Bay, Wisconsin); west to include the eastern thirds of Iowa and Missouri; and south to the southern border of Tennessee. The horizontal grid is rectangular in shape (see Figure 1 of the September 18, 2000 LADCO TSD). The modeling has the following horizontal and vertical resolutions:

Horizontal Resolutions

Approximately 12 kilometers x 12 kilometers—all modeling runs.

Approximately 4 kilometers x 4 kilometers—for selected runs to give better resolution in the area along the western shore of Lake Michigan.

Vertical Resolution

7 vertical layers with the following height ranges (above terrain) in meters: 0–50; 50–100; 100–250; 250–500; 500–1500; 1500–2500; and 2500–4000.

A subregional portion of the grid, centered (east to west) on the lower portion of Lake Michigan, was also considered to allow a more detailed analysis of the high ozone areas of Grid M. The use of Grid M and the subregional portion of Grid M allowed the consideration of both urban scale analyses and ozone transport. It should be noted that the modeling results from the modeling runs with the tighter 4 kilometer resolution were generally consistent with the results for the 12 kilometer resolution.

Four high ozone episodes in the Lake Michigan area were modeled. These episodes were: June 22–28, 1991; July 14–21, 1991; June 13–25, 1995; and July 7–18, 1995. These episodes were selected because: (1) They were judged to be representative of typical high ozone episodes in the Lake Michigan area and because they respresent a variety of meteorological conditions that have been found to be conducive to high

ozone concentrations in this area; (2) there is an intensive data base available for the 1991 episodes; and (3) several of these episodes (the July episodes) were modeled as part of the OTAG analyses, providing ozone transport and modeling domain boundary data.

The following input data systems and analyses were used to develop input data for the ozone model:

a. *Emissions.* UAM–V requires a regional inventory of gridded, hourly estimates of speciated VOC, NO_X, and carbon monoxide (CO) emissions. The States provided emission inventories which were processed through the Emissions Modeling System-1995 version (EMS–95). Emissions were prepared for a 1996 base year (used to test model performance), a 2007 base year (considering growth and previously adopted emission control measures), and several 2007 emission control strategy/sensitivity scenarios. The emission inventories include 1996 state periodic inventory data for stationary point and area sources, updated state transportation data, excess NO_X emissions produced by heavy-duty vehicles as a result of built-in ''defeat'' devices, updated growth and emissions control data, and EPA's latest emission reduction estimates for the mobile source Tier II/Low Sulfur program. Ambient temperature data affecting mobile source and evaporative emissions and biogenic emissions were generated using the RAMS3a meteorological model. Biogenic emissions were based on EPA's BEIS2 model, with an adjustment of the isoprene emissions in the Ozarks.[16] Point source emissions for some sources were addressed through the use of Plume-in-Grid (PiG)[17] techniques incorporated within UAM–V. An additional discussion of the development of the modeled emission inventories is presented below.

b. *Meteorology.* UAM–V requires gridded 3-dimensional hourly values of wind speed, wind direction, temperatures, air pressure, water vapor content, vertical diffusivity, and, if applicable, clouds and precipitation. Most meteorological inputs were derived through prognostic modeling with the RAMS3a model. Cloud and precipitation data were developed based on observed National Weather Service data. Preliminary analyses of the modeled meteorological data results showed adequate representation of the observed airflow features and good agreement between modeled and measured wind speeds, temperatures, and water vapor levels. LADCO, has concluded, however, that errors or uncertainties in the meteorological data may have affected the UAM–V results (albeit not significantly enough to invalidate the modeling results based on EPA recommended validation criteria). The errors have been minimized to the extent possible and suppressed through ''nudging'' using observed National Weather Service data at 12-hour intervals.

c. *Boundary Conditions.* Boundary conditions were developed by applying UAM–V over the OTAG modeling domain (this modeling domain covered most of the eastern half of the United States) for the selected high ozone episodes at a 36 kilometer grid resolution. The modeling was conducted to be consistent with the modeling used in the OTAG analyses.

Basecase modeling was conducted to evaluate model performance by comparing observed and modeled ozone concentrations. The model performance evaluation consisted of comparisons of the spatial patterns, temporal profiles, and magnitudes of modeled and measured 1-hour (and 8-hour) ozone concentrations.

In making the comparison of modeled and observed ozone concentrations, 1996 emissions were assumed to be reasonably similar to 1995 emissions, but significantly lower than 1991 emissions. To account for the 1991–1996 differences, a set of simple ''backcast'' emission factors were derived by comparing the county-level emissions in the 1991 Lake Michigan Ozone Control Program emissions inventory with the 1996 base year emissions inventory.

Peak daily 1-hour modeled ozone concentrations for each episode were analyzed and compared to the observed peak ozone levels in the modeling domain. For each type of comparison, the following conclusions were developed.

- *Spatial Patterns.* This analysis showed that areas of high modeled ozone concentrations correspond acceptably with areas of high measured ozone concentrations in the Lake Michigan area. Rural (generally upwind of the Lake Michigan ozone nonattainment areas) measured and modeled ozone concentrations were found to compare favorably. Peak modeled ozone concentrations over Lake Michigan, however, appear to be underestimated on some days.
- *Temporal Patterns.* Time series plots of 1-hour modeled and measured ozone concentrations by monitoring site were compared. The hour-to-hour and day-to-day variations of modeled and measured ozone concentrations were found to compare favorably. The modeling system seems to over-predict nighttime ozone concentrations and to under-predict peak daytime ozone concentrations, but performs within acceptable limits (see a discussion of the modeling validation below). At the monitoring sites with high measured ozone concentrations, the mid-afternoon modeled ozone concentrations are low.
- *Magnitude Comparisons.* Ozone statistics, unpaired peak accuracy, average accuracy of peak ozone concentrations, normalized bias results, and normalized gross error results are provided in the modeling system documentation. The model performance statistics for the Lake Michigan modeling domain subregion comply with EPA's recommended acceptance ranges. The statistics of the modeling system performance, however, demonstrate the tendency of the modeling system to underestimate measured peak ozone concentrations (although the modeling system overestimated some of the peak ozone concentrations).
- *Other Factors.* The modeling system's response to changes in ozone precursor emissions has been assessed by conducting sensitivity analyses and by comparing the differences in modeled and measured ozone concentrations and changes in emissions between 1991 and 1996. This assessment indicates that the model is responsive to changes in ozone precursor emissions and is consistent with observed air quality data and emissions data.

To assess the effects of grid resolution, analyses were conducted comparing modeling results for resolutions of 4 kilometers and 12 kilometers. Plots of predicted peak concentrations were analyzed for these two grid resolutions. In general, it appears that model performance at a resolution of 4 kilometers is comparable to that at a resolution of 12 kilometers.

The LADCO States have concluded that the modeling system performance is acceptable for air quality planning purposes (for the purposes of assessing

[16] Analyses of initial ozone modeling results indicated that initial isoprene emission estimates for the Ozarks had unrealistic impacts on the ozone concentrations modeled for the Lake Michigan area. Background ozone monitoring data did not support the high background/transported ozone levels modeled to result from this upwind source area. A study, known as OZIE, was conducted to reanalyse the isoprene emissions for the Ozarks. Based on the preliminary results of the OZIE study, LADCO concluded that the isoprene emissions for the Ozarks should be reduced by a factor of 2 (halved).

[17] sources to be addressed through PiG techniques were selected based on their magnitudes of NO_X emissions (the top 100 ranked stacks) and locations (the next 34 topped ranked stacks in the Lake Michigan and St. Louis areas).

the impacts of emission control strategies).

To test ozone attainment strategies, the LADCO States have projected emissions from the base year to 2007, the attainment year. The future emissions have been modified to reflect the various tested emission control strategies.[18] All other inputs to the ozone modeling system have been fixed at the levels used in the validated base year modeling analyses.

The remainder of the questions in this section of this proposed rule address the States' efforts to demonstrate attainment using the validated ozone modeling system and focuses on evaluating the attainment strategy. For additional discussions of the efforts to validate the modeling system, you are referred to the discussions of these efforts in the December 16, 1999 proposed rule (64 FR 70496).

4. How Were the 1996 Base Year Emissions Developed?

Besides being used to develop and validate the ozone modeling system, base year emissions were also used to project the attainment year emissions and, through comparisons with the attainment year emissions and analyses of monitored and modeled ozone concentrations, to support the adequacy of the selected emissions control strategy. For the purposes of the attainment demonstration used here, 1996 was selected to be the base year of the analyses.

The September 27, 2000 LADCO emissions inventory TSD documents the development of the base year emissions as well as the projection and development of the attainment year emissions used in the attainment strategy modeling and attainment demonstration. The following summarizes the development of base year emissions as documented in LADCO's September 27, 2000 TSD.

For the 1996 base year, emission rates for point and area sources were either provided by the EPA (from the NO_X SIP Call documentation) or by the States based on 1996 periodic emission inventories. Where appropriate, EPA's NO_X data were supplemented or corrected using state-specific data, as noted in LADCO's September 27, 2000 TSD.

Emission rates for on-road mobile sources were calculated through the use of EMS–95 based on a mobile source activity level, e.g., vehicle miles traveled (VMT), and the MOBILE5b emission factor model. The sources of the VMT, vehicle speed, and vehicle mix data are summarized in LADCO's September 27, 2000 TSD. Relative to previous emissions modeling, vehicle speeds were increased and vehicle mix distributions were shifted to heavier vehicles based on more recent data (the increased use of sports utility vehicles has increased the relative vehicle mixes of light duty gasoline trucks, increasing per VMT emissions rates). Mobile source emissions of NO_X were also increased for heavy-duty diesel vehicles as the result of the use of built-in ''defeat'' devices. These increased NO_X emissions were estimated by applying a processor supplied by the EPA.

Day-specific biogenic emissions were calculated using EPA's BEIS2 model. As noted above, comparisons of emission estimates and measured isoprene concentrations in the Ozarks indicated that the BEIS 2 isoprene emission estimates for the Ozarks are overestimated by a factor of 2.

As noted above, a number of refinements of the emissions estimates must be made to support the ozone modeling system. These refinements include spatial, temporal, and species processing and resolution. This was accomplished through the use of EMS–95. County-level point source emissions were spatially distributed based on facility or stack coordinates. County-level area source emissions were spatially resolved based on surrogates, such as population distributions and land use data. Mobile source emissions were calculated for each modeling grid cell by EMS–95, not requiring further resolution.

Daily average point source emissions were temporally allocated based on using facility-specific reported operating schedule information. Daily average area source emissions were temporally allocated using category-specific hourly distribution profiles. Mobile source and biogenic source emissions are temporally resolved through the use of EMS–95, which includes temporal emission profiles for these source categories.

The speciation profiles in EMS–95 were obtained from the latest version of EPA's SPECIATE data base.

To quality assure the base year emissions data, a top-down evaluation of the emissions inventory was performed using ambient ozone precursor data collected from the Photochemical Assessment Monitoring Stations (PAMS) in the Lake Michigan area. The evaluation included comparisons of monitored and calculated VOC to NO_X emissions ratios, the relative amounts of individual VOC species, and the measured and calculated reactivity of VOC compounds.

5. What Procedures and Sources of Projection Data Were Used To Project the Emissions to the Attainment Year?

The future year emission inventories used in the Lake Michigan Ozone Control Program and in the ozone attainment demonstration were derived from the base year emissions inventory. The base year emissions inventory was projected to 2007 by applying scalar growth factors for most source categories. Each LADCO State provided estimates of source growth and control factors by source sector. Source growth and emission control factors used in EPA's NO_X SIP Call were also considered, particularly for EGUs. Table 1 of the LADCO September 27, 2000 TSD documents in detail the sources of 2007 emission estimates by source category along with the sources of 1996 emissions and emission control factors and is included by reference here.

6. How Were the 1996 and 2007 Emission Estimates Quality Assured?

To improve the reliability of the modeling source emission inventories, several quality assurance activities were performed by the State emission inventory personnel, the emission modelers (those people responsible for speciating and temporally and spatially resolving the emissions data for use in the ozone modeling system), and the photochemical modelers. These activities included:

Development and Implementation of an Emissions Quality Assurance Plan. A standardized set of data and file checks were documented in a LADCO draft emissions quality assurance (QA) plan. This plan identifies the emissions quality assurance procedures to be followed by the State emission inventory personnel. Each State was responsible for quality assurance of its own emissions inventory data before providing these data to the LADCO emission modelers. The quality assurance of the data by the States included reviewing many EMS–95 emissions reports for consistency with other State-specific emissions data.

Emission Reports. EMS–95 itself performs a number of emission checks and generates reports flagging possible emission errors and summarizing data

[18] For a listing of the emission control measures modeled in the various emission control strategies, see Table 6, ''Control Measures,'' in LADCO's September 27, 2000 ''Technical Support Document: Midwest Subregional Modeling: Emissions Inventory'' or Section 5, ''Strategy Modeling,'' and Table 4, ''Control Measures,'' of LADCO's September 18, 2000 ''Technical Support Document: Midwest Subregional Modeling; 1-Hour Attainment Demonstration for Lake Michigan Area,'' both of which were included in Illinois' December 26, 2000 attainment demonstration submittal.

that can be checked against alternative emission data sets/reports. Table 7 of LADCO's September 27, 2000 TSD lists the EMS–95 standardized QA reports and is included by reference here. These reports were generated in the preparation of the Grid M emissions data and were used for QA efforts.

Review by Photochemical Modelers. The photochemical modelers quality assured the emissions inventories by generating and reviewing spatial plots of emissions by source sector/type. The reviews were designed to detect spatial anomalies (misplaced or missing sources). The modelers also conducted emission total checks against EMS–95 summary reports.

Stack Parameter Checks. A contractor, Alpine Geophysics, was employed, in part, to QA the point source emissions data. Alpine Geophysics discovered errors in the stack parameters and other point source data, including potential errors in gas exit velocities, emission rates, and physical stack parameters, for many point sources in the previous versions of the modeling system emission inventories. This review was distributed to the LADCO States to get the States to correct their respective point source emissions data. Some stack data were shifted from the elevated point source data files to the ground-level data files based on adopted screening parameters. This resulted in a spatial shift in emissions from previous modeling emission inventory versions.

7. What Is the Adopted Emissions Control Strategy?

To select possible emission control strategies, the LADCO States have modeled the ozone impacts of a number of emission control strategies for VOC and NO_X. After modeling and reviewing the ozone impacts of various strategies and considering CAA and EPA emission control requirements, Illinois has adopted the emission control strategy known as SR 16 (LADCO Strategy Run 16) as the emission control strategy that will be pursued to attain the 1-hour ozone standard in the Chicago-Gary-Lake County ozone nonattainment area. Table II lists the emission controls included in SR 16.

TABLE II.—SR 16—EMISSION CONTROL STRATEGY

• Clean Air Act Title IV Acid Rain Controls for NO_X—Phase I
• Rate-Of-Progress Plans (15 Percent ROP Plan and 9 Percent Post-1996 ROP Plan)
• National Low Emission Vehicle Standards
• Reformulated Gasoline—Phase II (where required)
• Federal Phase II Small Engine Standards
• Federal Marine Engine Standards
• Federal Heavy Duty Vehicle (≥ 50 horsepower) Standards—Phase I
• Federal Locomotive Standards—Including Rebuilds
• Federal High Compression Engine Standards
• Federal Tier I Light Duty Vehicle and Heavy Duty Vehicle Emission Standards
• Enhanced Vehicle Inspection and Maintenance (I/M) (where required)
• Basic Vehicle I/M (where required)
• Federal Clean Fuel Fleets Requirements (where required)
• Federal Tier II and Low Sulfur Gasoline Standards
• Utility 0.15 Pounds NO_X Per Million Btu of Heat Input Emission Limits (20 affected States, including Illinois)
• 60 Percent Reduction of NO_X Emissions From Large Non-Electric Generating Unit (Non-EGU) Boilers and Turbines (20 affected States, including Illinois)
• 30 Percent Reduction of NO_X Emissions From Large Cement Kilns (20 affected States, including Illinois)
• Wisconsin—0.28 Pounds NO_X Per Million Btu of Heat Input for Utilities (EGUs) in 8 Counties
• Missouri—0.25 Pounds NO_X Per Million Btu of Heat Input for EGUs in the Eastern One-Third of the State
• Missouri—0.35 Pounds NO_X Per Million Btu of Heat Input for EGUs in the Western Two-Thirds of the State

With regard to the NO_X emission controls listed in Table II, several aspects of the assumed NO_X emission reductions should be noted. First, the NO_X emission controls for utilities (EGUs), large non-EGU boilers and turbines, and large cement kilns in Grid M were assumed for all States (other than Wisconsin and Missouri) that are subject to EPA's NO_X SIP Call. In reality, the assumed NO_X emission reductions only reflect the expected NO_X emissions budgets for these States and not the actual NO_X emission controls that may actually occur in these States. Under the NO_X SIP Call, states are not restricted to specific NO_X emission controls, but are required to achieve assigned NO_X emission budgets. The UAM modeling system is designed to test emission reductions for specific source categories. Therefore, LADCO chose a specific emission control scenario expected to produce NO_X emissions that are compliant with the NO_X SIP Call.

Illinois has developed NO_X emission control regulations to control emissions from EGUs, non-EGU boilers and turbines, and cement kilns at or below the emission levels assumed for Illinois in control strategy SR 16. (The NO_X rules for EGUs, non-EGU boilers and turbines and cement kilns are undergoing separate review (see an EPA proposed rule addressing this State rule published on August 31, 2000, 65 FR 52967) and are expected to be approved before EPA completes final rulemaking on Illinois' ozone attainment demonstration.) Other states in Grid M have also submitted adopted or draft NO_X rules to comply with the NO_X SIP Call.

Second, with regard to the NO_X emission reductions assumed for Wisconsin and Missouri, these States have adopted and submitted NO_X rules to achieve the NO_X emission controls assumed in SR 16. The EPA has approved Missouri's NO_X rule (December 28, 2000, 65 FR 82285) and expects to take final action on Wisconsin's NO_X rule in the future and prior to final action on Illinois' ozone attainment demonstration.

In addition to the emission controls included in the above table, the following emission changes were also reflected in the modeling results for the control strategy: (a) Use of NO_X vehicle I/M cut-points in the Wisconsin ozone nonattainment areas; (b) revised traffic network vehicle miles traveled data provided by the Chicago Area Transportation Study (CATS); (c) updated MOBILE5b input data for Illinois and Wisconsin; and (d) corrected MOBILE5b input data for Ohio.

In the ozone modeling, the CAA-required emission controls were assumed for all states within Grid M and were assumed for all areas outside of Grid M in modeling used to determine the initial and boundary ozone and ozone precursor concentrations for Grid M. In the Chicago area, the CAA-required controls modeled include: Reasonably Available Control Technology (RACT) on stationary sources of VOC; enhanced vehicle I/M; Transportation Control Measures (TCM); and other emission controls included in the State's 15 percent ROP plan (for a discussion of the emission controls included in this plan see 62 FR 37494, July 14, 1997) and 9 percent post-1996 ROP plan (for a discussion of the emission controls included in this plan see 65 FR 78961, December 18, 2000).

Table III compares the VOC and NO_X emission rates for major source sectors in Grid M for the 1996 base year and for the adopted emission control strategy in 2007.

TABLE III.—COMPARISON OF 1996 AND SR 16 (2007) EMISSIONS IN GRID M

[Emissions in tons/day]

Pollutant	Point—EGU	Point—Non-EGU	Area—Offroad mobile	Area—Other	Onroad—Mobile	Biogenic sources	Total
VOC:							
1996 Base Year	32	2,335	1,716	4,780	3,633	30,816	43,312
SR 16	37	1,771	1,167	4,410	2,687	30,816	40,888
NO_X:							
1996 Base Year	5,844	1,876	2,138	602	5,681	2,000	18,141
SR 16	2,092	1,822	1,748	734	3,230	2,000	11,626

Source: Table 3, ''Technical Support Document—Midwest Subregional Modeling: Emissions Inventory,'' September 27, 2000.

8. What Were the Ozone Modeling Results for the Base Period and for the Future Attainment Period With the Selected Emissions Control Strategy?

Table IV presents the Grid M peak observed and modeled ozone concentrations for the high episode days selected for the modeling analysis and attainment demonstration. The following modeled peak concentrations are presented: (a) The modeled validation peak ozone concentrations for Grid M; (b) the modeled Grid M peak ozone concentrations using the 1996 base year emissions; and (c) the 2007 predicted ozone concentrations for ozone control strategy SR 16. All modeled and monitored ozone concentrations are 1-hour averages and represent peak ozone concentrations anywhere within Grid M.

TABLE IV.—PEAK MONITORED AND MODELED OZONE CONCENTRATIONS FOR GRID M

[Ozone Concentrations in ppb]

Date	Peak ozone observed	Peak ozone modeled validation	Peak ozone modeled 1996 base year emissions	Peak ozone modeled SR 16
6–25–91	104	123	123	110
6–26–91	175	136	138	117
6–27–91	118	139	127	111
6–28–91	138	124	102	95
7–16–91	130	129	108	103
7–17–91	137	119	89	89
7–18–91	170	137	108	109
7–19–91	170	137	112	111
7–20–91	138	168	150	128
6–21–95	112	123	122	118
6–22–95	119	131	131	119
6–23–95	123	128	128	113
6–24–95	166	136	136	126
6–25–95	108	125	124	120
7–12–95	146	118	118	105
7–13–95	178	147	146	124
7–14–95	150	140	140	127
7–15–95	154	156	156	128

Sources: Table 1, ''Midwest Subregional Modeling: 1-Hour Attainment Demonstration for Lake Michigan Area—Summary,'' September 18, 2000. Table 6, ''Technical Support Document—Midwest Subregional Modeling: 1-Hour Attainment Demonstration for Lake Michigan Area,'' September 18, 2000.

From the above, you can see that the ozone modeling results for the selected emissions control strategy do show four peak ozone concentrations above the 1-hour ozone standard on the following dates: July 20, 1991; June 24, 1995; July 14, 1995; and July 15, 1995. As noted in LADCO's September 18, 2000 summary of the attainment demonstration, simple modeling and assessment of the potential future peak ozone concentrations (a deterministic test) does not demonstrate attainment of the ozone standard because of these modeled ozone standard exceedances. Additional analyses were conducted to support the attainment demonstration for this and other emission control strategies.

EPA's most relevant current ozone modeling/attainment demonstration guidance (*Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS,* EPA–454/B–95–007, [June 1996]) provides for a statistical test as an alternate to a deterministic test to demonstrate attainment of the ozone standard (passing a statistical test can be used to support an ozone attainment demonstration even if a deterministic test is not passed). Under a statistical test, three benchmarks must be passed.

Benchmark 1 of the statistical test requires that the number of days with modeled ozone standard exceedances in each modeling domain grid cell must be less than 3 and that any modeled ozone standard exceedances occur on a ''severe'' day (severe days are determined by ranking high ozone days over many years and considering the ranking of the days covered in the modeled ozone attainment demonstration). Ten of the days

modeled by LADCO were determined to be ''severe,'' including July 20, 1991 and July 15, 1995.

Benchmark 2 of the statistical test requires that the maximum modeled ozone concentration on severe days shall not exceed 130 ppb to 160 ppb, depending on the ''severity'' of the meteorological conditions on the modeled days. For the ozone attainment demonstration addressed in this proposed rule, LADCO's analysis of the severity of the modeled days led LADCO to conclude that the peak ozone concentration limit should be 130 ppb.

Finally, benchmark 3 of the statistical test requires that the number of modeling domain grid cells with peak ozone concentrations above or equal to 125 ppb must be reduced (from the number in the modeled base period) by 80 percent on each ''severe'' day.

LADCO has determined that the SR 16 emissions control strategy (and other modeled emission control strategies not adopted by Illinois) leads to modeled peak ozone concentrations meeting all three benchmarks of the statistical test. See LADCO's September 18, 2000 ''Technical Support Document—Midwest Subregional Modeling: 1-Hour Attainment Demonstration for Lake Michigan Area.'' Therefore, attainment of the ozone standard is demonstrated through modeling for the SR 16 emissions control strategy.

In light of the inherent uncertainties in the ozone modeling and to further evaluate the ozone attainment demonstration, LADCO has also chosen to conduct two additional analyses that are components of a WOE analysis. First, using the base period observed ozone design values for various ozone monitoring sites and the modeled 2007, post-control peak ozone concentrations for the domain grid cells in the vicinities of these monitors, LADCO predicted 2007 ozone design values for these monitoring sites (this procedure is referred to as the ''relative reduction factor'' test). For the SR 16 control strategy, the relative reduction factor test leads to predicted ozone design values below the ozone standard for all ozone monitoring sites and modeling receptor locations considered, with the highest projected ozone design values being 122 ppb at an unmonitored mid-Lake Michigan location (a synthetic base period ozone design value was used for this site) and 119 ppb for a Michigan City, Indiana ozone monitoring site.

Second, LADCO conducted an ozone trends analysis, which shows a considerable amount of progress toward attaining the ozone standard. Local ozone levels have significantly declined over time, while incoming ozone concentrations (transported ozone concentrations) remain relatively high.

The WOE analyses further support the conclusions of the attainment demonstration and counter any concerns that may be raised regarding the inherent uncertainties in the ozone modeling and the tendency of the modeling system to under-predict some peak ozone concentrations (the modeling system also over-predicts some peak ozone concentrations).

Based on all of the ozone modeling data available and related emissions analyses, LADCO concludes that the best ozone control strategy would be to control local VOC emissions (within the urban nonattainment areas) and to couple this with the control of domain-wide, regional NO_X emissions (the purpose of EPA's NO_X SIP Call and Illinois' adoption of NO_X emission control rules for EGUs, non-EGU boilers and turbines, and cement kilns). This recommended emission control strategy approach is compatible with the emission control strategy selected by Illinois.

9. What Additional Analyses and Emissions Were Modeled by the State of Illinois?

Although the December 26, 2000 submittal of the ozone attainment demonstration by the IEPA indicates that the State of Illinois has adopted SR 16 as the emissions control strategy for attaining the 1-hour ozone standard, the IEPA has also decided to test the potential impacts of several emission changes not considered by the LADCO States as a whole. The additional emissions changes include: (a) Addition of NO_X emissions from recently permitted combustion turbine EGUs; and (b) incorporation of transportation conformity emissions budgets that include a greater level of Vehicle Miles Travelled (VMT) than considered in the LADCO ozone modeling.

Illinois has recently issued emission permits for 33 new combustion turbine EGUs statewide (prior to the submittal of the ozone attainment demonstration and prior to the public hearing on this attainment demonstration). Ten of these units are located within the Illinois portion of the Chicago-Gary-Lake County ozone nonattainment area. These combustion turbine units include ''combined-cycle'' installations for providing base load and intermediate to peak load electricity production, as well as ''simple-cycle'' installations for providing peak load generating capacity (peaker-plants). Some of the installations have been built to replace existing units and others have been built to reduce boiler usage at existing facilities. The IEPA has determined the peak daily VOC and NO_X emissions to be added by all of these installations and has determined the existing VOC and NO_X emissions that would be replaced by the new installations. Modeled emission rates are based on the turbines operating at 100 percent loads.

The attainment demonstration analyses conducted by LADCO included the 2007 Chicago link-based transportation network VMT provided by CATS. Historically and in previous ozone rate-of-progress plans, the IEPA has used higher 2007 VMT estimates for 2007 provided by the Illinois Department of Transportation. To remain consistent with these prior plans and with the base data used to derive the 1990 base year emissions (used to calculate furture year emissions and ROP plan emission reduction targets), the IEPA concluded that it should consider the extra emissions resulting from the higher VMT estimates.

To test the impacts of the extra VOC and NO_X emissions resulting from the permitted turbines and the increased VMT estimates, the IEPA has re-conducted the Grid M ozone modeling for SR 16, adding the extra VOC and NO_X emissions for the July 1991 modeled ozone episode days (the IEPA notes that this episode is the most constraining episode, requiring the greatest amount of ozone precursor emission reduction amongst all tested high ozone episodes). The State has re-conducted the modeling analyses for the revised Grid M emissions, and concludes that the revised modeling results pass the statistical test benchmarks. The peak modeled ozone concentrations for SR 16 and the IEPA supplemental ozone modeling are given in Table V.

TABLE V.—COMPARISON OF PREDICTED PEAK 1-HOUR OZONE CONCENTRATIONS [19]

[Ozone Concentrations in ppb]

Episode day	LADCO SR 16 results	IEPA supplemental ozone results
7–16–91	103	104
7–17–91	89	90
7–18–91	109	109
7–19–91	111	113
7–20–91	128	130

[19] Data taken from Table 2, Chapter I, of the December 21, 2000 ''Ozone Attainment Demonstration for the Chicago Nonattainment Area'' included as part of Illinois' December 26, 2000 ozone attainment demonstration submittal.

The IEPA concludes that the added emissions do not overturn the

conclusion of LADCO that the SR 16 emission control strategy will lead to attainment of the 1-hour ozone standard. The IEPA further points out that this procedure is conservative because the increased NO_X emissions from the EGU turbine installations will not actually increase the total NO_X emissions in the State of Illinois. Since all of these new turbines will be subject to the State's EGU NO_X rule, their NO_X emissions will be included in the State's NO_X emissions total, which will be constrained through a statewide NO_X emissions cap under EPA's NO_X SIP Call. Therefore, not all of the estimated 1–2 ppb ozone increase will actually occur.

It should be noted that, although these modeling results do not affect the conclusions regarding the adopted emissions control strategy, they do potentially affect the existing NO_X emissions control waiver in the Illinois portion of the Chicago-Gary-Lake County ozone nonattainment area. See the section of this proposed rule addressing the NO_X emissions control waiver below.

10. Do the Modeling Results Demonstrate Attainment of the Ozone Standard?

Based on LADCO's ozone modeling results and Illinois' supplemental modeling results, EPA believes that LADCO and, in particular, the State of Illinois have demonstrated attainment of the 1-hour ozone standard for the Chicago area based on the adopted SR 16 emissions control strategy.

11. Does the Attainment Demonstration Depend on Future Reductions of Regional Emissions?

Yes. The adopted emissions control strategy includes regional NO_X emission reductions for the State of Illinois as well as for surrounding states in compliance with EPA's NO_X SIP Call. LADCO has concluded that regional NO_X emissions reductions are crucial to attainment of the 1-hour ozone standard in the Lake Michigan area.

12. Has the State Adopted All of the Regulations/Rules Needed to Support the Ozone Attainment Strategy and Demonstration?

The State of Illinois has adopted and is implementing all emission controls required under the CAA, including the emission controls included in Illinois' 15 percent and post-1996 ROP plans. The additional emission controls needed to support the adopted emissions control strategy are the NO_X rules needed to comply with EPA's NO_X SIP Call. The State has adopted NO_X emissions control rules for EGUs, major non-EGU boilers and turbines, and cement kilns, and EPA is in the process of reviewing these rules. The EPA expects to approve these NO_X rules in final before giving final approval to the ozone attainment demonstration.

C. EPA's Evaluation of the Ozone Attainment Demonstration Portion of the State's Submittal

1. Did the State Adequately Document the Techniques and Data Used To Derive the Modeling Input Data and Modeling Results of the Analyses?

The State's submittal thoroughly documents the techniques and data used to derive the modeling input data. The submittal adequately summarizes the modeling outputs and the conclusions drawn from these modeling outputs. This includes the State's modifications to LADCO's model inputs. Therefore, EPA concludes that the ozone modeling has been successfully documented and that the State's attainment demonstration is complete from a documentation standpoint. This includes documentation of an adopted emissions control strategy, which was lacking in the State's earlier April 1998 ozone attainment demonstration submittal.

2. Did the Modeling Procedures and Input Data Used Comply With the Clean Air Act Requirements and EPA Guidelines?

Yes. The State of Illinois, through LADCO, has used the UAM to model attainment of the 1-hour ozone standard. The State has documented the modeling results and the input data considered. The modeling procedures and input data comply with the requirements of the CAA as well as with EPA policy.

3. Did the State Adequately Demonstrate Attainment of the Ozone Standard?

Illinois, in accordance with the CAA, as further clarified in EPA's December 1997 guidance, has demonstrated that attainment of the 1-hour ozone standard is achievable by November 15, 2007 (the attainment deadline for the Chicago-Gary-Lake County ozone nonattainment area) provided projected reductions in background ozone and ozone precursor concentrations occur as the result of the implementation of EPA's NO_X SIP Call. The State has demonstrated that the adopted emission control strategy, including local VOC emission control measures and regional NO_X emission control measures (including statewide NO_X emission reductions in Illinois needed to comply with the NO_X SIP Call), is adequate for attainment of the 1-hour ozone standard.

4. Has the Adopted Emissions Control Strategy Been Adequately Documented?

Yes. The emission controls included in adopted strategy have been identified and their cumulative emission impacts have been documented.

5. Is the Emissions Control Strategy Acceptable?

Yes. It is noted that the adopted emissions control strategy relies significantly on the adoption of NO_X emission control regulations by Illinois to comply with the requirements of EPA's NO_X SIP Call. Illinois has adopted rules to reduce NO_X emissions from EGUs, major non-EGU boilers, and major cement kilns. The EPA has proposed rulemaking for the EGU NO_X rule (65 FR 52967, August 31, 2000), proposing to approve the rule, and proposing to disapprove it in the alternative, if the State does not correct noted deficiencies in the rule (the State corrected the most significant deficiency in this rule through State legislation on May 31, 2001 as documented in a June 11, 2001 letter from the IEPA). The EPA is preparing proposed rulemakings for the non-EGU boiler and cement kiln NO_X emissions control rules. We cannot approve the attainment demonstration until after (or at the same time) we approve all of the NO_X emission control rules relied on in the State's ozone attainment demonstration. Assuming that we will approve Illinois' NO_X rules prior to or by the time we promulgate final approval of the ozone attainment demonstration, we find the ozone attainment demonstration to be approvable.

IV. Post–1999 Rate-of-Progress (ROP) Plan

A. What Is a Post-1999 ROP Plan?

ROP plans are a requirement of section 182 of the CAA. Section 182(c)(2)(B) of the CAA requires states with ozone nonattainment areas classified as serious and above, including the Chicago area which is classified as severe nonattainment, to adopt and implement plans to achieve periodic reductions in ozone precursors (VOC and/or NO_X) after 1996. The requirement is intended to ensure that an area makes definite and reasonable progress toward attainment of the ozone NAAQS. Since Illinois has already adopted and implemented a post-1996 ROP plan to meet the requirements of section 182(c)(2)(B) through November 15, 1999 (EPA approved this plan on December 18, 2000, 65 FR 78961) and

since the ROP plan reviewed here addresses the ROP requirements for the period after November 15, 1999, we refer to the ROP plan reviewed in this proposed rule as the post-1999 ROP plan.

The post-1999 ROP emission reductions are to occur at a rate of 9 percent of baseline emissions,[20] net of emissions growth, averaged over each 3-year period through the attainment year (2007 for the Chicago-Gary-Lake County ozone nonattainment area). The State must achieve the first 3 year ROP milestone (i.e., 9 percent) by November 15, 2002, another 9 percent ROP milestone by November 15, 2005, and the remaining 6 percent ROP milestone by November 15, 2007.

The ROP plan contains: (1) Documentation showing how the State calculated the emission reductions needed to achieve the incremental ROP emission reductions for each milestone period; (2) a description of the emission control measures used to achieve the incremental emission reductions; and (3) a description of how the State has determined the emission reduction creditable to each emission control measure.

B. What Is the ROP Contingency Measure Requirement?

Section 172(c)(9) of the CAA requires states with ozone nonattainment areas classified as moderate and above to adopt contingency measures by November 15, 1993. Such measures must provide for the implementation of specific emission control measures if an ozone nonattainment area fails to achieve ROP or to attain the NAAQS within the time-frames specified under the CAA. Section 182(c)(9) of the CAA requires that, in addition to the contingency measures required under section 172(c)(9), the contingency measure portion of the SIP for serious and above ozone nonattainment areas must also provide for the implementation of specific measures if an area fails to meet any applicable milestones in the CAA. As provided in these sections of the CAA, the contingency measures must take effect without further action by the state or by EPA upon failure of the state to meet ROP emission reduction milestones or to achieve attainment of the ozone NAAQS by a required deadline.

Our policy, as provided in the April 16, 1992 ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (General Preamble) (57 FR 13498), states that the contingency measures, in total, must generally be able to provide for emission reductions equal to 3 percent of the 1990 baseline emissions.

While all contingency measures and rules must be fully adopted by the states, states can use the contingency measures in one of two different ways. A state can choose to implement contingency measures before a milestone deadline. Alternatively, a state may decide not to implement a contingency measure until an area has actually failed to achieve a ROP or attainment milestone. In the latter situation, the contingency measure emission reduction must be achieved within one year following identification of a milestone failure.

C. What Illinois Counties Are Covered by the Post-1999 ROP Plan?

The post-1999 ROP plan covers the emission reduction requirements for the Chicago area. As indicated above, this area includes Cook, DuPage, Kane, Lake, McHenry, and Will Counties and the townships of Aux Sable and Goose Lake in Grundy County and Oswego in Kendall County. The VOC emission reduction requirements, as discussed below are determined relative to the VOC emissions in this area. Section 182(c)(2)(C) of the CAA provides for the substitution of NO_X emission controls to meet part of the VOC emission reduction requirements for ROP provided that the NO_X emission reduction produces an ozone reduction equivalent to that achieved from the required VOC emission reduction. As noted below, Illinois relies on the substitution of NO_X emission reductions in its post-1999 ROP plan. It should also be noted that EPA interprets the CAA to allow the substitution of VOC and NO_X emission reductions occurring outside of the ozone nonattainment area for nonattainment area VOC emission reductions needed to comply with ROP requirements, and Illinois' ROP plan incorporates such emission reduction substitution.

The Illinois ROP plan documentation refers to the term ''Volatile Organic Material'' (VOM) rather than to VOC. The State's definition of VOM is equivalent to EPA's definition of VOC. The two terms are interchangeable when discussing volatile organic emissions. For consistency with the CAA and EPA policy, we are using the term VOC in this proposed rulemaking.

D. Who Is Affected by the Illinois Post-1999 ROP Plan?

The post-1999 ROP plan does not itself create any new emission control requirements. Rather, it is a demonstration that existing regulations or regulations being developed to meet other emission reduction requirements are sufficient to achieve the required ROP emission reduction requirements.

The post-1999 ROP plan refers to various emission control regulations that have contributed to achieving the required ROP emission reductions for the 1999–2002, 2002–2005, and 2005–2007 periods for the Chicago area. These regulations, both Federal and State, affect a variety of industries, businesses, and, through the vehicle I/M program and other mobile source emission reduction requirements, motor vehicle owners. Most of these regulations, however, are already Federally enforceable through SIP revisions or through federally promulgated regulations.

E. What Criteria Must a Post-1999 ROP Plan Meet To Be Approved?

Section 182(c)(2)(B) establishes certain elements a post-1999 ROP plan must contain for approval. These elements are: (1) Emissions baseline; (2) emission target levels for each of the milestone years (2002, 2005, and 2007); (3) accounting for emission growth projections; and (4) emission reduction estimates from planned emission control measures.

The EPA has issued several guidance documents for states to use in developing approvable post-1996 ROP plans, which, as noted above, includes the post-1999 ROP plan. These documents address such topics as: (1) The relationship of ROP plans to other SIP elements required by the CAA; (2) calculation of the emission baseline and milestone year emission target levels; (3) procedures for projecting emission growth; and (4) methodology for determining emission reduction estimates for various emission control measures, including Federal emission control measures.

Our January 1994 guidance document, ''Guidance on the Post-1996 Rate-Of-Progress Plan and the Attainment Demonstration,'' provides States with the appropriate methods to calculate the emission reductions needed to meet the ROP emission reduction requirements. A complete list of ROP guidance documents is provided in the Technical Support Document (TSD) for the proposed rulemaking on Illinois' 9

[20] ''Baseline emissions'' are defined in section 182(b)(1)(B) of the CAA as the total amount of actual VOC or NO_X emissions from all anthropogenic sources in the area during the calendar year of the Clean Air Act Amendments of 1990, excluding emissions that would be eliminated due to: (1) Any measure relating to motor vehicle exhaust or evaporative emissions promulgated by the EPA by January 1, 1990; (2) any regulations concerning Reid Vapor Pressure promulgated by the EPA by November 15, 1990 or required to be promulgated under section 211(h) of the CAA.

percent post-1996 ROP plan (referred to in a March 3, 2000 proposed rule, 65 FR 11528), which can be obtained from Region 5 at the address indicated in the **ADDRESS** section.

F. What Are the Special Requirements for Claiming NO_X Emission Reductions in Post-1996 ROP Plans?

If a post-1996 (or post-1999 in this case) ROP plan relies on NO_X emission reductions, it is subject to certain additional requirements. Under section 182(c)(2)(C) of the CAA, a plan can substitute NO_X reductions for VOC reductions if the resulting ozone reductions are at least equivalent to the ozone reductions that would occur under a plan that relies only on VOC emission reductions. As required by section 182(c)(2)(C), the EPA issued guidance concerning the conditions for demonstrating equivalency. Our guidance provides that the NO_X substitution strategy must show that the sum of VOC and NO_X emission reduction percentages for each analyzed period must equal the ROP emissions reduction percentage required for that period, e.g., a 9 percent reduction from the 1990 baseline emissions for a 3-year period. Moreover, the State must provide technical justification that the NO_X emission reductions will reduce ozone concentrations within the nonattainment area covered by the ROP plan.

On December 29, 1997, we issued a policy memorandum entitled ''Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM10 NAAQS.'' Under this policy, both VOC emission controls outside of an ozone nonattainment area and NO_X emission controls may be substituted for VOC emission controls within the ozone nonattainment area to meet the ROP VOC emission reduction requirements. The geographic area for substitution of VOC emission reductions is within 100 kilometers of the ozone nonattainment area. The geographic area for substitution of NO_X emission reductions is within 200 kilometers of the ozone nonattainment area with the possibility for additional expansion of the NO_X substitution area as follows. Based on its review of public comments on this policy, EPA believes that the area for allowable NO_X substitutions should be expanded up to an entire state for those states in the core part of the OTAG modeling domain. For the purposes of this proposed rule, the core part of the OTAG modeling domain consists of the following states: Alabama; Connecticut; District of Columbia; Delaware; Georgia; Illinois; Indiana; Kentucky; Maine; Massachusetts; Maryland; Michigan; Missouri; North Carolina; New Hampshire; New Jersey; New York; Ohio; Pennsylvania; Rhode Island; South Carolina; Tennessee; Vermont; Virginia; Wisconsin; and West Virginia, i.e., the fine grid area of the OTAG modeling domain. The OTAG modeling results provide an adequate technical justification for statewide NO_X emission substitutions for ROP. All other states implementing a NO_X substitution strategy for ROP are restricted to a distance of 200 kilometers from an ozone nonattainment area, unless a substitution from a greater distance is accompanied by adequate technical justification.

The December 1997 policy states that a nonattainment area which has been granted a NO_X waiver can claim NO_X emission reductions occurring outside of the nonattainment area, but within the state's boundary, if such reductions will reduce ozone concentrations within the ozone nonattainment area. We granted a NO_X waiver for the Chicago-Gary-Lake County ozone nonattainment area in two final rules. On January 26, 1996 (61 FR 2428), we granted exemptions from the RACT and NSR requirements for major stationary sources of NO_X and from I/M and general conformity requirements for NO_X for ozone nonattainment areas within the Lake Michigan Ozone Study (LMOS) modeling domain. On February 12, 1996 (61 FR 5291), we approved Illinois' request to exempt the Chicago area (the Illinois portion of the Chicago-Gary-Lake County ozone nonattainment area) from the applicable NO_X transportation conformity requirements.[21] See the discussion of the NO_X waiver below. OTAG modeling has shown that several NO_X waiver areas actually benefit from NO_X reductions upwind. Therefore, under the December 1997 policy, a state can credit NO_X emission reductions occurring outside of a NO_X waiver area, but within the state's boundary, if the state provides a technical analysis showing that the NO_X emission reductions will lower ozone concentrations within the ozone nonattainment area (i.e., the NO_X waiver area). The ozone attainment demonstration submitted by Illinois provides such documentation.

G. How Did Illinois Calculate the Needed ROP and Contingency Emission Reduction Requirements?

Using EPA guidance, Illinois calculated the needed emission reductions by taking the following steps:

1. Determine what portion of the milestone period emission reduction is to be VOC and what portion is to be NO_X.
2. Establish the emission baselines for both VOC and NO_X.
3. Calculate the emission target levels to meet the ROP requirements for 2002, 2005, and 2007.
4. Estimate the projected emission growth that would occur if there were no ROP emission reductions.
5. Subtract the ROP-based emission targets from the projected emission levels to determine the VOC and NO_X emission reductions needed, net of growth.
6. Calculate the needed contingency measure emission reduction requirement.

These steps are further explained below.

1. VOC and NO_X Fractions of the Total Emission Reductions for a Milestone Period

As in Illinois' 9 percent post-1996 ROP plan, Illinois relies on both VOC and NO_X emission reductions in the post-1999 ROP plan to meet the 3 percent ROP emission reduction requirement for each year. For each 3 year period, Illinois has chosen to achieve a 2 percent portion of the emission reduction through VOC emission reductions and to achieve a 7 percent portion of the emission reduction through NO_X emission reductions.

2. Baseline Emissions

Under our post-1996 ROP policy, plans that rely on both VOC and NO_X emission reductions should have separate emission baselines for each pollutant. The CAA requires emission baselines to represent 1990 anthropogenic emissions on a typical peak ozone season weekday. Peak ozone season weekday emissions represent the average daily emissions of weekdays that occur during the peak 3-month ozone period of June through August.

Illinois used the Chicago area's 1990 base year emissions inventory as the

[21] The NO_X waiver approval for transportation conformity does waive the requirements for motor vehicle NO_X emission budgets as part of the ozone attainment demonstration and ROP plans. After these plans are approved, the associated NO_X emission budgets must be considered in conformity determinations and the NO_X waiver is no longer applicable to conformity determinations. The requirements for NO_X emission budgets can only be waived if the State has demonstrated that NO_X emissions in the ozone nonattainment area can be increased without limit without threatening delay of attainment of the ozone standard beyond the applicable attainment date or beyond an earlier achievable date. Prior to the EPA approval of the zone attainment demonstration and ROP plans, the approval of the NO_X waiver exempts the State from requirements for build/no-build and less-than-1990 emissions tests for NO_X.

basis for the VOC baseline emissions. We approved the Chicago area 1990 emissions inventory as a SIP revision on March 14, 1995 (60 FR 13631).

For the NO_X emissions baseline, Illinois used the 1990 statewide NO_X emissions inventory it submitted to EPA in response to the NO_X SIP Call (see 63 FR 57356, October 27, 1998). The NO_X emissions baseline consists of the 1990 emissions which occurred statewide, excluding NO_X emissions from the Chicago and Metro-East St. Louis ozone nonattainment areas. The State excluded the nonattainment area NO_X emissions from the baseline because the State is relying on NO_X emission reductions only from the State's ozone attainment areas and because Illinois has a NO_X waiver in the Chicago ozone nonattainment area. The ozone attainment demonstration submitted by Illinois, as reviewed above, shows that a NO_X emissions reduction in the ozone attainment areas reduces peak ozone concentrations in the Chicago-Gary-Lake County ozone nonattainment area. Therefore, Illinois' NO_X baseline is consistent with the technical analyses supporting attainment of the ozone standard in the Chicago area.

The CAA requires that the ROP emissions baseline be ''adjusted'' to exclude emissions eliminated by the Federal Motor Vehicle Emissions Control Program (FMVCP) and Federal gasoline Reid Vapor Pressure (RVP) regulations promulgated before November 15, 1990. The CAA prohibits states from claiming ROP emission reductions resulting from these regulations. To achieve an accurate ROP emissions target, the State must subtract the noncreditable emission reductions from the emissions baseline to reflect the impacts of these reductions on 2002, 2005, and 2007 emissions. The resulting emissions is called the ''adjusted baseline emissions.'' The impacts of the FMVCP and RVP emission control regulations depend on the specific milestone year.

3. Milestone Emission Target Levels

After the State establishes the adjusted baseline emission estimates, the next step is to calculate the VOC and NO_X emission target levels for the milestone years. The January 1994 EPA policy document, ''Guidance on the Post-1996 Rate-Of-Progress Plan and the Attainment Demonstration,'' provides the method for calculating emission target levels. To calculate the emission targets, the State identified the previous milestone year target emission levels. From these target levels, the State subtracted (a) the emission reduction needed to meet the ROP requirement, and (b) the vehicle fleet turnover correction factors.

4. Projected Emission Growth Levels

To account for source emission growth between 1990 and the milestone years, the State must develop projected emission inventories for VOC and NO_X. The projected emission inventories represent what emissions would be in 2002, 2005, and 2007 if no emission control measures claimed in the ROP plan had occurred.

The State of Illinois did not include this documentation in the ROP plan reviewed in this proposed rule, but notes that it has used the same procedures to calculate emission reductions and projections as used in the State's post-1996 ROP plan (approved by the EPA on December 18, 2000, 65 FR 78961). The State provides graphical emission projections (Figures II–2 and II–3 of Illinois' post-1999 ROP plan) and tabular emission projections (Table II–8 in Illinois' post-1999 ROP plan) in which emissions growth appears to have been considered. These graphs and tabular data appear to represent the combined impacts of emissions growth and emission reductions. It is concluded that the State has included estimates of emissions growth in its projected emission estimates.

5. Emission Reductions Needed To Achieve ROP

According to the State's calculations, the following VOC emission reductions are needed for each milestone year to meet ROP requirements: 152.42 tons per day (TPD) by 2002; 177.82 TPD by 2005; and 213.49 TPD by 2007 (taken from Table II–7 of Illinois' post-1999 ROP plan).

The ROP plan does not specify the NO_X emission reductions needed for the milestone years to meet ROP requirements. The plan, however, does compare projected NO_X emissions to calculated ROP emission target levels for each of the milestone years.

6. Calculation of the Required Contingency Measure Emission Reduction

Consistent with guidance provided in the General Preamble, Illinois determined the needed contingency measure emission reduction by multiplying the 1990 adjusted base year VOC emissions by 3 percent. Based on this calculation, the needed contingency emission reduction for the Chicago area is 31.11 TPD of VOC. The State has determined that the contingency emission reduction can be achieved through VOC emission reductions only: thus, no NO_X emission reduction is needed to meet the contingency measure requirements for a milestone failure in the Chicago area.

To assure that the contingency emission reduction is achieved, Illinois has decided to implement sufficient emission reductions to meet both the ROP requirements and the contingency measure requirement for each milestone period. Therefore, no future implementation trigger is needed based on a failure to meet a milestone. See the discussion below of the State's contingency measure plan.

The following tables summarize the State's post-1999 ROP calculations for determining the needed ROP emission reductions (VOC and NO_X). Note that Illinois has chosen to divide the emission reduction requirements into 2 percent of the VOC adjusted baseline emissions for the ozone nonattainment area and 7 percent of the NO_X emissions in the State's ozone attainment areas for each 3 year period.

TABLE VI.—CALCULATION OF VOC ROP TARGET EMISSION LEVELS

[Emission in tons per day]

Calculation parameter	Milestone year			
	1990	2002	2005	2007
1990 Base Year Emissions	1363.40			
1990 Adjusted Base Year Emissions (minus biogenic emissions)	1216.56			
Adjusted Baseline Emissions		1019.67	1010.70	1009.00
ROP Emission Reduction Required at 0.667 percent per year of adjusted baseline emissions		20.39	20.21	10.09
Fleet Turnover Correction		17.32	8.97	1.70

TABLE VI.—CALCULATION OF VOC ROP TARGET EMISSION LEVELS—Continued

[Emission in tons per day]

Calculation parameter	Milestone year			
	1990	2002	2005	2007
Emission Target Level for Milestone Year	.....	770.11	740.92	729.13

TABLE VII.—CALCULATION OF NO_X ROP TARGET EMISSION LEVELS

[Emissions in tons per day]

Calculation parameter	Milestone year			
	1990	2002	2005	2006
1990 Base Year Emissions in Ozone Attainment Areas	2085.80	.....	.....	.....
Adjusted Baseline Emissions	.....	1929.31	1920.96	1925.08
ROP Emission Reduction Required at 2.33 percent per year of adjusted baseline emissions	.....	135.05	134.47	96.25
Fleet Turnover Correction	.....	28.23	8.35	5.39
Emission Target Level for Milestone Year	.....	1657.23	1514.41	1412.76

H. What Are the Criteria for Acceptable ROP Emission Control Strategies?

Under section 182(b)(1)(C) of the CAA, emission reductions claimed for ROP are creditable to the extent that the emission reductions have actually occurred before the applicable ROP milestone dates. In our policy, EPA has interpreted the CAA to mean that, to be creditable, emission reductions must be real, permanent, and enforceable. Our policy (see 57 FR 13567) provides that, at a minimum, the emission reduction calculation methods should follow the following four principles: (1) Emission reductions from control measures must be quantifiable; (2) control measures must be enforceable; (3) interpretation of the control measures must be replicable; and (4) control measures must be accountable. Post-1996 plans must also adequately document the methods used to calculate the emission reduction for each control measure.

Section 182(b)(1)(D) of the CAA places limits on what emission control measures states can include in ROP plans. All permanent and enforceable control measures occurring after 1990 are creditable with the following exceptions: (1) FMVCP reductions due to requirements promulgated by January 1, 1990; (2) RVP reductions due to RVP regulations promulgated by November 15, 1990; (3) emission reductions resulting from Reasonably Available Control Technology (RACT) ''Fix-Up'' regulations required under section 182(a)(2)(A) of the CAA; and (4) emission reductions resulting from vehicle I/M program ''Fix-Ups'' as required under section 182(a)(2)(B) of the CAA.

I. What Are the Emission Control Measures In Illinois' Post-1999 ROP Plan?

VOC Emission Control Measures

Table VIII specifies the VOC emission control measures relied on in the post-1999 ROP plan and their associated VOC emission reductions for each milestone year.

TABLE VIII.—CHICAGO NONATTAINMENT AREA VOC EMISSION REDUCTION MEASURES

[Emission reductions in tons per day]

VOC Control measure	Emission reduction level—TPD		
	2002	2005	2007
Mobile Source Measures:			
Post-1994 Tier I Vehicle Emission Rates	60.50	79.40	92.10
Federal Reformulated Gasoline—Phase I & II	111.80	109.70	109.20
Illinois 1992 I/M Improvements	12.30	12.40	12.60
Enhanced I/M Program[22]	16.60	17.80	18.10
1			
Conventional Transportation Control Measures	4.00	5.00	6.00
National Energy Policy Act of 1992	0.20	0.20	0.20
Federal Non-Road Small Engine Standards	35.81	61.07	78.97
National Low Emissions Vehicle Program	3.1	13.4	25.3
Federal Clean Fuel Fleet Vehicle Program	2.60	2.80	2.80
Tier II Vehicle Standards/Low Sulfur Fuel Standards	0	4.30	5.70
Point Source Measures:			
Emissions Reduction Market System (ERMS)	12.6	0	0
Area Source Measures:			
1999 Cold Cleaning Degreaser Limits	11.68	0	0
Total Creditable VOC Emission Reductions	271.19	306.07	350.97

[22] Emission reductions beyond those to be achieved through the 1992 I/M requirements, as improved.

It should be noted that, with the exception of the Tier II Vehicle Standards/Low Sulfur Fuel Standards, the emission controls relied on for the post-1999 ROP plan were addressed in Illinois' post-1996 ROP plan, including the procedures used to calculate the emission reductions. You are referred to EPA's final rule on that plan (65 FR 78961, December 18, 2000) for a more detailed discussion of these emission control measures and their associated emission reduction calculations.

The emission reductions for the Tier II Vehicle Standards and Low Sulfur Fuel Standards were incorporated into the ozone attainment demonstration based on default data supplied to the State by the EPA. These same default data were used to derive the emission reduction data for this control measure for the milestone years.

NO_X Emission Control Measures

Table IX specifies the NO_X emission control measures relied on in the post-1999 ROP plan and the associated NO_X emission reductions for each milestone year.

TABLE IX.—ILLINOIS OZONE ATTAINMENT AREA NO_X EMISSION REDUCTION MEASURES

[Emission reductions in tons per day]

NO_X Emission control measure	Emission reduction level—TPD		
	2002	2005	2007
CAA Tier I Vehicle Emission Standards	49.70	72.90	82.80
Tier II Vehicle Standards/Low Sulfur Fuel Standards	.....	23.00	35.00
National Low Emission Vehicle/Heavy Duty Gasoline Vehicle Standards	.....	16.10	37.30
Federal Off-Road Engine Standards	45.23	95.80	122.32
Title IV Acid Rain Controls on EGUs	36.20	.....	.....
NO_X SIP Call (EGUs, Non-EGU Boilers and Turbines, and Cement Kilns)	.....	430.18	
Total Creditable NO_X Emission Reductions	131.13	637.99	277.42

As with the VOC emission reduction for the Tier II Vehicle Standards/Low Sulfur Fuel Standards, Illinois used data supplied by the EPA to calculate the NO_X emission reduction for this source category. The other emission reduction estimates are supported by the emission reduction estimates provided by the State to the EPA in support of OTAG and the NO_X SIP Call.

J. Are the Emission Control Measures and Calculated Emission Reductions Acceptable to the EPA, and Is the Post-1999 ROP Plan Approvable?

With the exception of the VOC emission reduction calculated for the VOC ERMS program, we find the estimated emission reductions to be acceptable for all reduction categories. As previously noted in the proposed rulemaking on the Chicago area post-1996 ROP plan (65 FR 81799, December 27, 2000), we believe that the ERMS program will only reduce VOC emissions by 10.9 tons per day by 2002. It is noted, however, that even assuming a 10.9 tons per day emission reduction for the ERMS program, the ROP plan achieves a 9 percent emission reduction for the 3-year period of November 15, 1999 through November 15, 2002. The State's submission indicates that a 2 percent VOC emission reduction requirement for 2002 is approximately 157 tons per day, whereas, emission controls implemented prior to November 15, 2002 will achieve a total VOC emission reduction of approximately 271 tons per day.

The adequacy of the ROP plan may be assessed by comparing the VOC and NO_X target emission level with the projected, post-control emission levels for each of the milestone years. Table II–6 in Chapter II (''Rate-of-Progress and Contingency Measures'') of Illinois'' December 26, 2000 submittal provides the comparison of ROP-based target emission levels to projected, post-control emission levels. As indicated in the State's Table II–6 and in Table VI above, the VOC target emission levels for the milestone years are: 770.11 tons per day in 2002; 740.92 tons per day in 2005; and 729.13 tons per day in 2007. From Table II–6 in the State's submittal, the projected, post-control VOC emissions are: 647.64 tons per day in 2002; 614.47 tons per day in 2005; and 592.58 tons per day in 2007. As indicated in the State's Table II–6 and in Table VII above, the NO_X target emission levels for the milestone years are 1657.23 tons per day in 2002; 1514.41 tons per day in 2005; and 1412.76 tons per day in 2007. From Table II–6 in the State's submittal, the projected, post-control NO_X emissions are: 1538.77 tons per day in 2002; 1019.35 tons per day in 2005; and 965.51 tons per day in 2007. Clearly, the targeted emission levels are achieved through a combination of VOC and NO_X emission reductions. The excess VOC and NO_X emission reductions provide for a more robust ROP plan and will offset some shortfalls in the planned emission reductions should such occur in the future. We view the ROP plan as being very good and approvable.

It is noted that EPA has yet to give final approval to the VOC ERMS rule and the NO_X rules for EGUs, major non-EGU boilers and turbines, and cement kilns. EPA must approve these rules before EPA can give final approval to the State's ROP plan.

V. Contingency Measures Plan

A. What Are the Requirements for Contingency Measures Under Section 172(c)(9) of the CAA?

Section 172(c)(9) of the Act requires SIPs to contain additional measures that will take effect without further action by the State or EPA if an area fails to achieve ROP by applicable milestone dates or to attain the standard by the applicable attainment date. The CAA does not specify how many contingency measures are needed or the magnitude of emissions reductions that must be provided by these measures. However, EPA provided guidance interpreting the control measure requirements of 172(c)(1) in the April 16, 1992, General Preamble for Implementation of the Clean Air Act Amendments of 1990. See 57 FR 13498, 13510. In that guidance, EPA indicated that States with moderate and above ozone nonattainment areas should include sufficient contingency measures so that, upon implementation of such measures, additional emissions reductions of up to 3 percent of the emissions in the adjusted base year inventory (or such lesser percentage that will cure the identified failure) would be achieved in the year following the year in which the failure has been

identified. States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative reviews. The additional 3 percent reduction would ensure that progress toward attainment occurs at a rate similar to that specified under the Reasonable Further Progress (RFP) (also called the Rate of Progress or ROP) requirements for severe areas (i.e., 3 percent per year) and that the State will achieve these reductions while conducting additional control measure development and implementation as necessary to correct the shortfall in emissions reductions or to adopt newly required measures necessary to reach attainment.

EPA has also determined that Federal measures can be used to analyze whether the contingency measure requirements of section 179(c)(9) have been met. While these measures are not SIP-approved contingency measures which would apply if an area fails to attain, EPA believes that existing, Federally-enforceable measures can be used to provide the necessary substantive relief. Therefore, Federal measures may be used in the analysis, to the extent that the ROP plan and the attainment demonstration do not rely on them or take credit for them. (See, e.g., 66 FR 586, 615 (January 3, 2001).)

B. How Does the Chicago Attainment Demonstration SIP Address the Contingency Measure Requirements?

Calculation of Illinois's total 1990 adjusted base year inventory for VOC emissions for the nonattainment area is detailed in EPA's December 18, 1997, (62 FR 66279) approval of the 15% plan and in the Illinois 15% plan submittal. Illinois' 1990 adjusted base year inventory of VOC emissions for the Chicago nonattainment area is 1,064.05 tons per day (TPD). Per EPA's guidance, Illinois has determined that contingency measures must achieve a VOC reduction of 31.11 TPD.

Illinois has identified surplus emissions reductions that occur thru the year 2009 that are available as contingency measure reductions in the post-2007 period. These contingency measure reductions are not the same reductions as were approved as contingency measures for the 15 percent ROP plan for Illinois (62 FR 37494) and the 9 percent ROP plan for Illinois (65 FR 78961). The contingency measure reductions approved at that time have been implemented and were included in the most recent attainment demonstration modeling for the Chicago area. Thus, these measures have already been ''used'' to demonstrate attainment. Contingency measures for the ozone attainment demonstration must be above and beyond (or surplus to) the measures that were modeled in the attainment demonstration or used to show attainment of the one-hour ozone standard. Thus the reductions listed here have been reviewed for their applicability as contingency measures surplus to any previous reductions or crediting, including emission reductions credited to the contingency requirements of the post-1999 ROP plan as discussed above.

The control measures and the calculated reduction are listed in the following table:

TABLE X.—ILLINOIS CONTINGENCY MEASURE REDUCTIONS

Control measure	Reduction (TPD)
Mobile Source Measures	10.8
Tier II/Low Sulfur Fuel Program [23]	1.4
On-Board Diagnostics	23.5
Non-Road Engine Standards ...	14.0
Total	49.7

[23] Emissions in excess of those claimed and tested in the ozone attainment demonstration.

Illinois is relying on future emission reductions from a number of federal rules to serve as contingency measures for the attainment demonstration. The mobile source measures consist of incremental reductions from the Federal Motor Vehicle Emissions Program and other Federal and State measures already in place. In addition, several other new Federal measures are relied upon, which include the On Board Diagnostics rule, the Non-Road Engine Standards rule, and the Tier II/Low Sulfur fuel rule. Illinois has documented the methodology for the calculation of the emission reductions and this material is available in the docket. The measures and the emission reduction calculations are summarized here.

The On Board Diagnostics (OBD) test standards have already been adopted by Illinois in Title 35 Subtitle B subpart H Part 240. These rules required Illinois to begin OBD testing in their I/M program on January 1, 2001. However, on March 28, 2001, the EPA Administrator signed a final rulemaking to amend the vehicle I/M program requirements to incorporate a check of the OBD system and to extend the date that states needed to comply until January 1, 2002. Implementation of this check during the already implemented I/M program in the Chicago area will begin in January 2002. Illinois has estimated the amount of reductions from OBD testing that will occur in 2008 and 2009. The resultant 23.5 TPD emissions reduction is listed in the table. This emission reduction is in excess of the mobile source emission reductions considered in the ozone attainment demonstration, and, therefore, can be credited towards the contingency requirements.

The Non-Road Engine Standards apply to all sizes of non-road diesel engines. These engines include lawn and garden equipment, larger industrial equipment, marine engines, recreational vehicles, locomotives and aircraft engines. The standards are phased in with Tier 2 standards from 2001 to 2006 and more stringent Tier 3 standards for larger engines from 2006 to 2008. The VOC emissions reduction for the contingency measure has been calculated to be 7.0 TPD for 2008 and 7.0 TPD for 2009. More detail on the emissions calculation is provided in the docket.

The Tier II/Low sulfur fuel rule promulgated by EPA begins to take effect in 2004. Illinois used EPA's MOBILE5 information sheet #8 to estimate reductions. The 2007 VMT estimate was used for the calculation. The reduction listed in the Table represents the difference between the 2007 estimate (5.65 TPD) and the 2009 estimate (7.08 TPD).

These reductions meet the criteria for reductions to be used as contingency measures. The measures are already adopted for implementation and will provide for specific emission control measures if the area fails to attain the ozone standard by 2007. The measures will take effect without any further action by the State or by EPA. The reductions are surplus to the attainment demonstration and the post-1999 ROP plan emission reductions.

The only remaining question or issue is the timing of the emission reductions. As noted above, the General Preamble indicates that the contingency measures emission reductions should be achieved in the year following the year in which the attainment failure has been identified. For the Chicago area, the attainment date is November 15, 2007. Therefore, the critical attainment ozone season is April through October of 2007 (the last ozone season prior to the attainment date). Following this ozone season, it will take the State of Illinois and other States in the Chicago downwind environs several months to review and quality assure the 2007 ozone data. EPA must then use these data to make the determination of attainment, which can take up to 6 months. This means the determination

will not occur until sometime in 2008. Therefore, 2009 is the ''year following the year'' in which EPA is expected to make the determination of attainment, and, therefore, Illinois can take credit for any emission controls implemented between 2007, the attainment year, and 2009.

C. Does the Chicago, Illinois Attainment Demonstration Meet the Contingency Measure Requirements?

EPA believes that Illinois has identified contingency measures which will provide for a 3 percent reduction in VOC emissions from the 1990 adjusted base year inventory, as required by section 172(c)(9) of the CAA. Illinois has identified VOC emission reductions totaling 49.7 tons per day from On-Board Diagnostics, Tier II, Non-Road Engine Standards and other Mobile Source measures which exceeds the required reductions of 31.11 TPD.

VI. Emission Control Rule Adoption and Implementation Status

Illinois has completed rule adoption for all of the rules needed to support the ozone attainment demonstration and the post-1999 ROP plan. The EPA is in the process of rulemaking on the State's NO_X rules and VOC ERMS rule. Final approval of the NO_X and VOC ERMS rules is required before we can give final approval to the ozone attainment demonstration and post-1999 ROP plan.

VII. Mid-Course Review Commitment

A. Why Is a Mid-Course Review Commitment Necessary?

The EPA's modeling and attainment demonstration guidance (Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, June 1996), provides that states must commit in their SIPs to perform mid-course reviews whenever they rely on ''weight-of-evidence'' to support an attainment demonstration. This guidance also requires a mid-course review for all severe and extreme ozone nonattainment areas because of the uncertainty inherent in emission projections that extend 10–15 years into the future. Also, EPA's proposed rulemaking on the 1-hour ozone SIPs (December 16, 1999, 64 FR 70318) set forth a framework for reviewing and processing the 1-hour ozone SIPs; one element of that framework was a commitment for a Mid-Course Review (MCR).

A MCR is a reassessment of modeling analyses and more recent monitored air quality data and emission estimates to determine if a prescribed control strategy has resulted in emission reductions and air quality improvements needed to attain the 1-hour standard for ozone by the attainment date established in the approved SIP. The EPA believes that a commitment to perform a MCR is a critical element in any attainment demonstration that employs a weight-of-evidence test. In proposing to approve the attainment demonstration of SIPs for ten serious and severe nonattainment areas for the 1 hour ozone NAAQS on December 16, 1999, EPA indicated that in order for EPA to approve the SIPs, the States would have to commit to perform a MCR, since they relied on a weight-of-evidence test. EPA also requested the States to work with EPA in a public consultative process to develop a methodology for performing the MCRs and developing the criteria by which an adequate progress would be judged.

In the December 16, 1999, notices of proposed rulemaking, EPA did not request that States commit in advance to adopt new control measures as a result of the MCR process. Based on the MCR, if EPA determines additional control measures are needed for attainment, EPA would determine whether additional emission reductions are necessary from a state or states in which the nonattainment area is located or from upwind states, or both. The EPA would then require the affected state or states to adopt and submit the new measures within a period specified at that time. The rulemaking proposals noted that EPA anticipated that these findings would be made as calls for SIP revisions under section 110(k)(5) and, therefore, the period for submission of the measures would be no longer than 18 months after the EPA finding.

B. Did Illinois Submit a Mid-Course Review Commitment?

Illinois has submitted a MCR commitment. Although Illinois does not rely on weight-of-evidence in the final 1-hour attainment demonstration,[24] Illinois has submitted a MCR commitment letter dated December 17, 1999 (this commitment was further refined in a followup letter dated May 24, 2001 as discussed below). In the December 16, 1999, proposed rulemaking, the EPA required Illinois to submit a MCR commitment letter because the 1-hour attainment demonstration submitted in 1998 had modeling which relied on weight-of-evidence. The modeling at that time assumed a 0.25 pounds of NO_X per million British thermal units of heat input emission rate for EGUs in Illinois and in other states expected to be covered in EPA's NO_X SIP Call. Since that time, the modeling has been revised to account for the NO_X SIP Call controls (Illinois will limit NO_X emissions from EGUs to 0.15 pounds per million British thermal units of heat input and will also limit the NO_X emissions from major non-EGU boilers and turbines and from major cement kilns). The most recent modeling submitted in the attainment demonstration SIP does not rely on weight-of-evidence to demonstrate attainment. Thus, under EPA policy, the State of Illinois would not be required to commit to the MCR for that reason. However, the June 1996 EPA guidance requires a mid-course review for severe and extreme areas due to the uncertainty of emissions projections that extend out 10–15 years in the future. EPA and the State of Illinois both believe that the MCR is a good check on the emissions reductions and progress toward attainment of the 1-hour ozone NAAQS. Illinois and the other Lake Michigan States have submitted letters of commitment to complete the MCR.

Illinois submitted a letter dated December 17, 1999, which contained a commitment to complete a mid-course review. The letter and other documents, including a supplement to the 9 percent ROP plan and motor vehicle emissions budgets, were discussed at public hearing on January 18, 2000. The commitment however, did not contain a date certain for the submittal of the mid-course review. To clarify it's commitment, Illinois has submitted a letter dated May 24, 2001 in which Illinois commits to submit the mid-course review by December 31, 2004. This commitment is acceptable.

VIII. NO_X Waiver

A. What Is the History of the NO_X Emissions Control Waiver in the Chicago-Gary-Lake County Ozone Nonattainment Area?

Part D of the CAA establishes the SIP requirements for nonattainment areas. Subpart 2, part D of the CAA establishes additional provisions for ozone nonattainment areas. Section 182(b)(2) of this subpart requires the application of RACT regulations for major stationary VOC sources located in moderate and above ozone nonattainment areas as well as in ozone transport regions. States with affected areas were required

[24] Illinois included weight-of-evidence data in the attainment demonstration to add support to the adequacy of the modeled attainment demonstration. Since the ozone modeling showed attainment of the ozone standard using the statistical test, the weight-of-evidence determination data were not inherently needed as a critical part of the ozone attainment demonstration, but do serve the purpose of compensating for the uncertainties inherent in the ozone modeling and do add support to the projected attainment of the 1-hour ozone standard.

to submit RACT regulations by November 15, 1992. Section 182(a)(2)(C) requires the application of NSR regulations for major new or modified VOC sources located in marginal and above ozone nonattainment areas as well as in ozone transport regions. States were required to adopt revised NSR regulations by November 15, 1992. Section 182(f) requires States to apply the same requirements to major stationary sources of NO_X as apply to major stationary sources of VOC. Therefore, the RACT and NSR requirements also apply to major stationary sources of NO_X in certain ozone nonattainment areas and in ozone transport regions.

The section 182(f) requirements are discussed in detail in EPA's ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 55628, November 25, 1992). For ozone nonattainment areas located outside of an ozone transport region, the NO_X emission control requirements do not apply to NO_X sources if: (1) The EPA determines that net air quality benefits are greater in the absence of NO_X emission reductions; or (2) the EPA determines that additional reductions of NO_X emissions would not contribute to attainment of the ozone standard in the area. Where any one of these tests is met (even if the other test is failed), the NO_X RACT and NSR requirements of section 182(f) would not apply and may be ''waived.'' See section 182(f)(1). In addition, under section 182(f)(2) of the CAA, if the EPA determines that excess reductions in NO_X emissions would be achieved under section 182(f)(1) of the CAA, the EPA may limit the application of section 182(f)(1) to the extent necessary to avoid achieving such excess emission reductions.

In addition to determining the applicability of NO_X requirements for RACT and NSR, the section 182(f) waiver process may also determine the applicability of certain requirements applicable to NO_X under the CAA's transportation and general conformity requirements, which assure conformity of Federal programs and projects with approved SIPs. The general and transportation conformity requirements are found at section 176(c) of the CAA. The conformity requirements apply on an area-wide basis in ozone nonattainment and maintenance areas. The EPA's transportation conformity final rule[25] and general conformity final rule[26] reference the section 182(f) exemption process as a means for exempting an affected area from certain NO_X conformity requirements. The approval of a section 182(f) exemption petition granting a NO_X waiver results in the exemption of marginal and above ozone nonattainment areas from the emission reduction tests[27] with respect to NO_X under the transportation and general conformity requirements of the CAA. See EPA's May 27, 1994 memorandum entitled ''Section 182(f) Nitrogen Oxides (NO_X) Exemptions-Revised Process and Criteria,'' from John Seitz, Director of the Office of Air Quality Planning and Standards. However, once NO_X emission budgets are established under attainment demonstrations and ROP plans, areas must meet the NO_X emission budgets for transportation conformity notwithstanding the existence of NO_X waivers.

Similarly, under the I/M program final rule (57 FR 52950), November 5, 1992, the section 182(f) petition is also referenced to determine applicability of I/M-based NO_X emission reductions (I/M NO_X emission cutpoints). The I/M requirements for serious and above ozone nonattainment areas are found at section 182(c)(3) of the CAA. Basic I/M testing programs must be designed such that no increase in NO_X emissions occur as a result of the programs. So long as this is done, if a NO_X waiver petition is granted to an area required to implement a basic I/M program, the basic I/M NO_X emission cutpoints may be omitted. Enhanced I/M testing programs must be designed to reduce NO_X emissions consistent with an enhanced I/M performance standard. If a NO_X waiver petition is granted to an area required to implement an enhanced I/M program, the NO_X emission reduction is not required, but the enhanced I/M program must be designed to offset NO_X emission increases resulting from the repair of vehicles due to hydrocarbon or carbon monoxide emission failures detected through the I/M program.

As part of a July 13, 1994 submittal from LADCO, the States of Illinois, Indiana, Michigan, and Wisconsin petitioned the EPA for a waiver of the NO_X emission reduction requirements of section 182(f) of the CAA and for a waiver of the above-described NO_X emission control requirements for conformity and basic and enhanced I/M in the ozone nonattainment areas in the Lake Michigan ozone modeling domain (this includes the Chicago-Gary-Lake County ozone nonattainment area). The EPA reviewed this petition in proposed rulemaking on March 6, 1995 (60 FR 12180) and in final rulemaking on January 26, 1996 (61 FR 2428). The final rulemaking approved the existing waiver of RACT, NSR, and certain I/M and general conformity NO_X requirements in the subject ozone nonattainment areas. The EPA also granted an exemption from certain transportation conformity NO_X requirements for ozone nonattainment areas classified as marginal or transitional within the Lake Michigan ozone modeling domain on February 12, 1996 (61 FR 5291). These exemptions were granted based on a data analysis/modeling demonstration showing that additional NO_X emission reductions either would not contribute to or would interfere with attainment of the 1-hour ozone standard for ozone nonattainment areas within the ozone modeling domain.

The continued approval of the exemption was made contingent on the results of the States' final ozone attainment demonstrations and emission control plans for the ozone modeling domain[28] (61 FR 2428, January 26, 1996). It was noted that the ozone modeling in the final ozone attainment demonstrations would supersede the ozone modeling information that provided the basis for the support of the NO_X emissions control waiver. To the extent that the final attainment plans include NO_X emission controls on major stationary

[25] ''Critical and Procedures for Determining conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved under Title 23 U.S.C. or the Federal Transit Act,'' November 24, 1993 (58 FR 62188).

[26] ''Determining Conformity of General Federal Actions to State or Federal Implementation Plans; Final Rule,'' November 30, 1993 (58 FR 63214).

[27] Prior to the approval of an ozone attainment demonstration or a ROP plan, an ozone nonattainment area granted a NO_X waiver may be exempted from the conformity rule's requirements for a build/no-build test and a less-than-1990 emissions test. After an atainment demonstration or a ROP plan containing motor vehicle emissions budgets is approved and the emissions budgets are found to be adequate by the EPA, conformity determinations must be conducted using the motor vehicle emissions budgets and the NO_X waiver no longer applies for transportation conformity purposes. Since the general conformity rules encourage, but do not require, specified emissions budgets, NO_X general conformity waivers may apply for the applicable life of the waiver.

[28] At the time the NO_X control exemption was granted, the States had not completed the final ozone attainment demonstrations for the Lake Michigan ozone modeling domain. The NO_X exemption/waiver petition was supported by ozone modeling data available at the time of the exemption approval. This ozone modeling data included sensitivity analyses investigating the potential impacts of NO_X emission changes on peak ozone concentrations within the ozone modeling domain. It was recognized that the final ozone attainment demonstrations could ultimately be based on different input data that would provide a different picture of the impacts of NO_X emission changes on peak ozone concentrations.

sources in the ozone nonattainment areas in the Lake Michigan ozone modeling domain, we noted that we would remove the NO_X emissions control waiver for those sources. We stated that the NO_X emissions control waiver would be continued for all sources and source categories not covered by new NO_X emission controls in the final attainment demonstrations. Consistent with those statements, EPA is reconsidering the existing NO_X waiver as part of the rulemaking on the final ozone attainment plans.

B. What Are the Conclusions of the State Regarding the Impact of the Ozone Attainment Demonstration on the NO_X Control Waiver?

Although the State of Illinois has included statewide NO_X emission reductions resulting from plans to meet EPA's NO_X SIP Call as critical components of the ozone attainment demonstration and the post-1999 ROP plan for the Chicago area, the State has concluded that these plans do not interfere with the NO_X emissions control waiver because the ozone attainment demonstration and ROP plans do not depend on NO_X emission controls exempted under the existing NO_X waiver.

C. What Are the Bases and Conclusions of a Petition Against the NO_X Waiver?

On August 22, 2000, an attorney representing a number of organizations filed a petition under section 182(f)(3) of the CAA, requesting that the EPA revoke the NSR exemption portion of the NO_X waiver granted to Illinois on January 26, 1996. In general, the petitioners believe that an increase in permitting of new facilities by the State for certain source categories effectively undermines the basis for the NSR portion of the existing NO_X waiver. The petitioners include the following organizations:

1. American Lung Association of Metropolitan Chicago
2. Citizens Against Power Plants in Residential Areas (Kane and DuPage Counties, Illinois)
3. Citizens Against Ruining The Environment (Will County, Illinois)
4. Citizens For A Better Environment—Illinois
5. Illinois Environmental Council
6. Illinois Citizen Action
7. Lake County Audubon Society
8. Lake County Conservation Alliance
9. Liberty Prairie Crossing (Lake County, Illinois)
10. Prairie Crossing Homeowners Association, Prairie Holdings Corporation (Lake County, Illinois).

The petition notes that section 182(f)(3) of the CAA allows ''a person'' to petition the Administrator (EPA) for a determination of whether it is appropriate for otherwise applicable NO_X requirements to be waived in ozone nonattainment areas. Although this petition was submitted separately from the ozone attainment demonstration plan that is the subject of this proposed rule, we believe it is appropriate to review this NO_X waiver petition concurrently with our rulemaking action on the State's attainment plan.

The petitioners include the following observations and arguments for petitioning the EPA to reconsider the NO_X waiver granted to Illinois.

The petitioners note that, when we granted the NO_X waiver in the January 26, 1996 final rulemaking, we stated that we would consider altering or revoking the existing NO_X waiver under one of the following circumstances:

1. The completion of ozone attainment demonstrations and plans arising from OTAG's findings;
2. The development of attainment plans that include NO_X controls on ''certain'' major stationary sources;
3. If the waiver causes or contributes to any new violations of the ambient air quality standards;
4. If the waiver increases the frequency or severity of existing [ozone standard] violations;
5. If the waiver contributes to delays in achieving attainment;
6. If the waiver inhibits progress toward complying with the SIP;
7. If the waiver contributes to non-attainment in, or interference with maintenance by any other State or in another nonattainment area within the same state; or
8. If subsequent modeling demonstrates that, as a general matter for ozone nonattainment areas across the country, NO_X emission reductions in addition to VOC emission reductions will be needed to achieve attainment.

The petitioners note that we explicitly characterized the granting of the existing NO_X waiver as contingent. Therefore, the petitioners believe we have provided a basis for reconsidering the NO_X waiver based on more current information.

The petitioners cite to the emergency powers granted EPA under section 303 of the CAA, and also note that both the State and the Federal governments retain authority under section 110 of the CAA to address developments that may threaten adequate SIP implementation. They further state that SIPs must regulate the construction of any stationary source within the areas covered by the plans to assure the NAAQS are being achieved. The petitioners assert that these CAA requirements, coupled with the reasons for revoking or revising the NO_X waiver, as specified above, provide the legal bases for us to reconsider the NO_X waiver granted to Illinois.

The petitioners list the following factual reasons for petitioning us to reconsider the NSR portion of the NO_X waiver.

1. The NO_X waiver is causing unforeseen consequences that are defeating the purpose of achieving air quality standards. The NO_X waiver is enabling the unchecked proliferation in Illinois of natural gas fired peakers and combined cycle plants (here collectively referred to as combustion turbine generators). Because of the NO_X waiver, mandates relating to Lowest Achievable Emission Rates (LAER) and emission offset requirements for new major NO_X sources in ozone nonattainment areas are not being required for the new combustion turbine generators. As a result of the NO_X waiver, the NO_X emissions cutoff for the definition of a ''major NO_X source'' has been adjusted from 25 tons per year (TPY) to 250 TPY in the Chicago-Gary-Lake County ozone nonattainment area. The new permitted combustion turbine generators have been designed to have peak potential NO_X emission rates below 250 TPY. The new combustion turbine generators have sought permits as minor sources of NO_X, avoiding the more stringent emission control requirements for major NO_X sources. In the view of the petitioners, because these sources are minor by definition, they are permitted under New Source Performance Standard (NSPS) requirements that, in combination with the sheer number of new facilities, offers few options for meaningful review by the State regulators despite the potentially severe cumulative impacts on air quality in Illinois and elsewhere.

As of July 7, 2000 and since 1998, more than 20 natural gas fired power plants have been proposed in the Chicago nonattainment area. Most of these units will operate when the energy demand is high and top prices for electricity will be paid; this coincides with the period when potentially high ozone concentrations will also occur, on the high temperature days of summer. In Illinois, there are approximately 50 new combustion turbine generators that have entered the siting or permitting process. Although the environmental performance of these new facilities contrast favorably with coal-burning power plants, there is no proposal to decommission any existing coal burning facility to accomodate the new combustion turbine generators.

2. The factual determinations leading to the NO_X waiver have been superceded, and invalidated by subsequent research completed through the OTAG process. The petitioners note that, in contrast to the information provided by the LADCO States to support the NO_X waiver petition, the OTAG analyses substantially discounted the concept of beneficial or benign NO_X emissions. The OTAG analyses underscore the significant local and regional benefits of NO_X emission reductions. These analyses form the support for EPA's NO_X SIP Call that mandates meeting strict NO_X emission budgets. Among the conclusions of OTAG noted by the petitioners are:

a. Regional NO_X emission reductions are effective in producing ozone benefits;

b. The greater the NO_X emission reductions, the greater the ozone benefits;

c. Ozone benefits are greatest in the subregions where NO_X emission reductions are made;

d. Although decreased with distance, there are ozone benefits outside of the subregions where emission reductions are made;

e. Both tall-stack and low-level NO_X emission reductions are effective;

f. Air quality data indicate that ozone is pervasive, is transported and, once aloft, is carried over long distances and transported from one day to the next;

g. The range of the ozone transport is generally longer in the North; and

h. NO_X controls on utilities are recommended for states in much of the OTAG region.

Both the NO_X SIP Call and the OTAG findings underscore the importance and cost-effectiveness of NO_X reductions as an ozone attainment strategy. Both the NO_X SIP Call and the OTAG findings were made without reference to the unchecked proliferation of the new combustion turbine generators. Consequently, the petitioners contend that, even if there was not a proliferation of new peaker plants, because of information generated by OTAG and EPA's NO_X SIP call, there is still a compelling basis for EPA to reconsider the NO_X waiver granted in 1996 in its entirety.

As further support, the petition includes a listing of the combustion turbine generators or similar NO_X emitting units that are currently holding adopted State of Illinois source permits or that currently (as of August 2000) are in the process of seeking State source permits. This information does not include the potential NO_X emissions for these generators (however, the information provided to EPA by the State in the ozone attainment demonstration does include such information for many of these generators). The petitioners have also included statements regarding these generators from the Director of the IEPA and a related news article from the Chicago Tribune.

D. What Are the Conclusions That Can Be Drawn Regarding the NO_X Control Waiver From Data Contained in the State's Ozone Attainment Demonstration?

As noted above, the IEPA has included in its ozone attainment demonstration an analysis of the potential ozone impacts of an increase in statewide NO_X emissions due to newly permitted (i.e., as of September 2000) combustion turbine generators in the State. Out of the 33 new permitted generators considered, 10 of these generators are located in the Chicago area, as indicated in Table XI.

TABLE XI.—NEW PERMITTED COMBUSTION TURBINE GENERATORS IN THE ILLINOIS PORTION OF THE CHICAGO-GARY-LAKE COUNTY OZONE NONATTAINMENT AREA

County	Facilty owner-operator	Electrical output (megawatts)	NO_X emissions (T/day)	VOC emissions (T/day)	CO emissions (T/day)
Cook	People's Energy/Calumet Power LLC	276	1.677	0.124	0.554
Cook	Calumet Energy LLC	305	1.788	0.108	0.432
Cook	Commonwealth Edison/West Tech Turbines	110	1.572	0.048	0.69
DuPage	Reliant Energy	950	1.822	0.068	1.508
DuPage	ABB Energy Ventures/Grand Prairie Energy	508	0.51	0.03l	0.266
Kane	Dynegy/Rocky Road	398	2.122	0.118	1.382
McHenry	Reliant Energy	510	0.657	0.031	0.315
Will	Peoples Energy Resources Corporation	3100	5.235	0.176	6.08
Will	Des Plaines Greenland/Enron	831	1.432	0.091	2.35
Will	University Park Energy LLC/Constellation Power.	300	1.684	0.129	1.022

Considering all of the potential NO_X emission increases estimated for permitted combustion turbine generators throughout the State and increases in the estimated 2007 VMT (resulting in higher estimated mobile source emissions), the State modeled a potential peak ozone increase of only 1 to 2 ppb (relative to the peak ozone concentrations modeled by LADCO) for the critical high ozone episode of July 16–20, 1991. However, the State did not determine the potential ozone impacts for only those sources located in the Chicago area, that is those sources listed in Table XI. Therefore, it is unclear how the NO_X emissions from the new generators in the Chicago area would actually impact peak ozone concentrations in the modeling domain or whether these new NO_X emissions would cause the peak ozone concentrations to potentially increase.[29]

The State does note that the NO_X emissions for all of the permitted combustion turbine generators will be covered by the statewide NO_X emission control rules adopted by Illinois to comply with EPA's NO_X SIP Call. The combustion turbine generators will be subject to these rules along with other EGUs and other NO_X sources. Therefore, the State concludes that total NO_X emissions in the State of Illinois will not increase (subsequent to the implementation of the NO_X rules) as a result of the addition of the new permitted generators. The new generators will be ''EGUs'' by definition and will be subject to the NO_X rule for EGUs adopted by the State and currently under review by the EPA. Nonetheless, the addition of new

[29] The addition of new NO_X emissions in urban ozone nonattainment areas can cause peak ozone concentrations in or near the nonattainment area to either increase or decrease (through a process known as ozone scavenging). Without local ozone modeling, it is impossible to predict the direction of the change in peak ozone levels or the magnitude of the change due to changes in local NO_X emissions.

generators in the local nonattainment area has the potential to result in an increase in the NO_X emissions in the local nonattainment area. As the IEPA notes in response to a public comment on its attainment demonstration (see the State's response to comment (4) in Attachment 7, ''Hearing Responsiveness Summary,'' of the December 26, 2000 attainment demonstration submittal), the local NO_X emissions can increase with the addition of new generators in the area despite the fact that such generators will be subject to the NO_X rule for EGUs. New sources may be subject to NO_X emission reduction requirements, but may meet those emission reduction requirements through purchase of emission reduction credits from sources outside of the nonattainment area and possibly even in another state. We, however, cannot at this time predict that NO_X emissions will actually increase in the Chicago-Gary-Lake County ozone nonattainment area as the result of the startup and operation of the new combustion turbine generators. Because of the NO_X SIP Call, it is assumed that any potential increase in the NO_X emissions in the nonattainment area will be balanced by NO_X emission reductions elsewhere in the State.

It is noted that the State has taken credit for NO_X emission reductions in the Chicago area due to the new EGU NO_X control regulations. Table XII lists the ozone nonattainment area EGU facilities listed in the September 27, 2000 ''Technical Support Document: Midwest Subregional Modeling: Emissions Inventory.'' Emissions from these facilities were included in the base period EGU emissions and were reduced in the modeled emissions control strategy SR 16 to test the impacts of EPA's NO_X SIP Call.

TABLE XII.—CHICAGO NONATTAINMENT EGU BASE PERIOD NO_X EMISSIONS

[Emissions in tons per day]

Facility name	Facility ID/stack ID	County	NO_X emissions TPD
Commonwealth Edison—Joliet Generating Facility	197809AAO/0017	Will	24.08
Commonwealth Edison—Joliet Generating Facility	197809AAO/0016	Will	18.54
Commonwealth Edison—Will County Generating Facility	197810AAK/0013	Will	14.28
Commonwealth Edison—Will County Generating Facility	197810AAK/0007	Will	13.14
Commonwealth Edison—Will County Generating Facility	197810AAK/0011	Will	10.65
Commonwealth Edison—Waukegan Generating Facility	097190AAC/0018	Lake	10.45
Commonwealth Edison—Will County Generating Facility	197810AAK/0009	Will	8.29
UNO–VEN Company	197090AAI/0167	Will	7.91
Commonwealth Edison—Fish Generating Facility	031600AMI/0007	Cook	7.70
Commonwealth Edison—Crawford Generating Facility	031600AIN/0012	Cook	7.70
Commonwealth Edison—Waukegan Generating Facility	097190AAC/0016	Lake	6.05
CPC International Incorporated	031012ABI	Cook	5.89
Commonwealth Edison—Waukegan Generating Facility	097190AAC/0021	Lake	4.71
Commonwealth Edison—Crawford Generating Facility	031600AIN/0010	Cook	4.45

E. What Are the EPA Conclusions Regarding the Existing NO_X Waiver Given the Petition and the Available Ozone Modeling Data?

The fact that the State and LADCO have modeled ozone reduction benefits through the implementation of certain NO_X emission controls, including NO_X emission controls on EGUs in the Chicago area, indicates that the NO_X waiver as initially granted should be revised. The existing NO_X waiver was based on a demonstration that NO_X controls in the ozone nonattainment areas within the Lake Michigan ozone modeling domain [30] would not lower peak ozone concentrations on all modeled high ozone days in the modeling domain or would actually increase peak ozone concentrations in the modeling domain on some modeled high ozone days. The final attainment demonstration supports the conclusion that regional, statewide NO_X controls on EGUs, large non-EGU boilers and turbines, and cement kilns, that are to be implemented in order to comply with EPA's NO_X SIP Call, will lower peak ozone concentrations in Grid M and in the modeling domain originally considered in the granting of the NO_X waiver. This includes the region-wide control of NO_X emissions from the new combustion turbine generators.

With respect to the citizen NO_X waiver petition discussed above, it is noted that the petitioners have raised a concern about the ozone impacts of the increased NO_X emissions expected from the new combustion turbine generators. The petitioners have not provided ozone modeling or other data to support the case that these emissions will in fact cause the ozone standard to be violated, particularly after the State has implemented the NO_X rules adopted to meet the NO_X SIP Call. The available data indicate that the ozone standard will be attained after the State has implemented its ozone control strategy as set forth in the State's ozone attainment demonstration. No data are available, either in the ozone attainment demonstration submittal or in the petitioner's submittal, to indicate that the NO_X emissions resulting from the new combustion turbine generators in the Chicago area (the subject area of the NO_X waiver petition) will interfere with attainment of the 1-hour ozone standard in that area or in its downwind environs.

Illinois has analyzed the impacts of increased NO_X emissions for new, permitted combustion turbine generators throughout the State, including in the Chicago area. The analysis indicates that attainment of the ozone standard is expected to occur by 2007 despite the addition of NO_X emissions from these sources. In addition, as noted by the State, since the new combustion turbine generators will be covered and controlled by the State's new EGU NO_X rule, which subjects EGUs to a cap-and-trade emissions control program, and since total NO_X emissions in the State are constrained by the NO_X emissions budget assigned to Illinois by EPA's NO_X SIP Call, the

[30] At the time of the granting of the existing NO_X waiver, the ozone modeling domain was substantially smaller than Grid M used in the final ozone attainment demonstration. The original ozone modeling domain used to support the States' NO_X waiver petition, as approved in 1996, covered the Northeast portion of Illinois, the Northwest portion of Indiana, the Southeast portion of Wisconsin, and the Southwest portion of Michigan. The ozone modeling domain was centered on the lower half of Lake Michigan.

new NO_X emissions from the combustion turbine generators will not cause the NO_X emissions in Illinois to climb above the NO_X emission totals modeled in the State's ozone attainment demonstration.

It is concluded that the petition to remove NSR from the NO_X waiver is not supportable and should be denied. The NO_X waiver is amended to the extent that the State has assumed that some NO_X emission reductions in response to the NO_X SIP Call will benefit and are needed to support the ozone attainment demonstration. Since additional NO_X emission controls, beyond those already planned in the ozone attainment demonstration, are not needed to attain the ozone standard in the ozone modeling domain by the 2007 attainment deadline, the NO_X waiver remains supportable for RACT, NSR, and certain transportation and general conformity [31] and I/M requirements. This conclusion is consistent with the excess NO_X emission reduction test provisions of section 182(f)(2) of the CAA. NO_X emission reductions for these waived emission control measures are not assumed in the State's ozone attainment demonstration. This conclusion is subject to revision through the final rulemaking on the State's ozone attainment demonstration. Commenters on this proposed rule are encouraged to comment on the merits of both EPA's proposed rule on the attainment demonstration and on the merits of EPA's conclusion regarding the NO_X waiver petition.

IX. Motor Vehicle Emissions Budgets for Conformity and Commitment To Re-Model Using MOBILE6

A. What Are the Requirements for Motor Vehicle Emissions Budgets for Conformity?

Section 176(c) of the CAA requires that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. This requirement applies to transportation plans, programs and projects developed, funded or approved under title 23 U.S.C. or the Federal Transit Act (transportation conformity) and to all other Federally supported or funded projects (general conformity). EPA's transportation conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do conform. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

Attainment demonstrations and ROP Plans are required to contain adequate motor vehicle emissions budgets derived from the mobile source portion of the demonstrated attainment or ROP emission inventory. The motor vehicle emissions budgets establish caps on motor vehicle emissions. VOC and NO_X emissions associated with transportation improvement programs and long-range transportation plans cannot exceed these caps. The criteria for judging the adequacy of motor vehicle emissions budgets are detailed in the transportation conformity regulations in 40 CFR 93.118.

B. How Were the Illinois Attainment Demonstration and ROP Emissions Budgets Developed?

Illinois has submitted motor vehicle emissions budgets for VOC and NO_X for the 2007 attainment year based on the emissions analyses included in the attainment demonstration. Illinois has also submitted motor vehicle emissions budgets for VOC for the milestone years 2002 and 2005 based on the ROP emissions calculations (the 2007 ROP budget for VOCs is the same as the 2007 VOC attainment demonstration budget). Illinois is only required to submit VOC budgets for the milestone years because the NO_X waiver for the area waived the requirement for ROP NO_X reductions. However, a NO_X emissions budget is required for the 2007 attainment demonstration budget year and a NO_X budget has been submitted by the IEPA. The following outlines the techniques used by Illinois to derive the VOC budgets and the 2007 NO_X emissions budget.

Vehicle miles of travel (VMT) growth estimates were derived consistent with the 15 percent ROP plan and 9 percent ROP plan for the Chicago area. An interagency consultation process involving the Illinois Department of Transportation (IDOT), the IEPA, the Federal Highway Administration, the EPA, and the Chicago Area Transportation Study (CATS) took place. For the 2002, 2005, and 2007 budget years, VMT growth was applied to the actual 1990 VMT used in the 1990 base year Chicago ozone precursor emissions inventory. The VMT was then adjusted to reflect summer weekday conditions. Emission factors were generated for 2002, 2005 and 2007 using EPA's MOBILE5b emission factor model. The emission factors for 2005 and 2007 were then adjusted to reflect implementation of the Tier II/Low Sulfur gasoline program by using an EPA-supplied information sheet since this national program will be in place in 2004. The resulting motor vehicle emissions budgets for the 2007 attainment year are 154.91 tons per day of VOC and 293.92 tons per day of NO_X. In addition, Illinois submitted VOC budgets for the 2002 and 2005 milestone years. The VOC budget for 2002 is 183.4 tons per day and the VOC budget for 2005 is 163.4 tons per day. The 2002 and 2005 VOC budgets are based on the control measures identified in the ROP portion of the submittal. The 2007 VOC milestone year budget is the same as the 2007 attainment demonstration VOC budget. The 2007 level of VOC emissions were modeled in the attainment demonstration modeling, and the modeling met the criteria for attainment of the 1-hour ozone standard.

Illinois submitted UAM modeling in the attainment demonstration submittal to support the VMT estimate for 2007 provided by the Illinois Department of Transportation based on their analysis of traffic counts in the Chicago area. The mobile source control measures considered by Illinois in the development of the 2007 motor vehicle emissions budgets included: centralized, enhanced vehicle Inspection and Maintenance (I/M); Federal reformulated gasoline; National Low Emission Vehicle program; Tier II/Low Sulfur gasoline requirements; and planned transportation control measures. The attainment demonstration modeling conducted by Illinois, which used the 204 million miles per summer weekday of VMT and also included estimated emissions from a statewide inventory of recently permitted combustion turbine electrical generating units and ancillary emission sources, as was discussed earlier in this notice, demonstrated attainment of the one hour ozone standard. Illinois addressed these emissions budgets and their commitment to revise the budgets using MOBILE6 during the November 8, 2000, public hearing on the post 1999 ROP and attainment demonstration.

C. Did Illinois Commit To Revise the Budgets When MOBILE6 Is Released?

In order for EPA to approve attainment demonstrations, states whose attainment demonstrations include the effects of the Tier II/Low Sulfur gasoline program need to commit to revise and resubmit their attainment demonstration

[31] As noted elsewhere in this proposed rule, the motor vehicle NO_X emission budgets are required despite the existence of the NO_X waiver, and these emission budgets must be used in conformity determination after the ozone attainment demonstration and post-1999 ROP plan are approved and these motor vehicle emission budgets are found to be adequate.

motor vehicle emission budgets based on MOBILE6 after EPA officially releases the new emission factor model, because MOBILE6 provides a better estimate of Tier II reductions than the current version of the model (MOBILE5b). This policy was detailed in the supplemental notice of proposed rulemaking issued on July 28, 2000 (65 FR 46383). Illinois committed to revising the 2007 attainment demonstration budgets and its 2005 ROP motor vehicle budget within two years of the official release of MOBILE6. No conformity determinations will be made during the second year after the release of MOBILE6 unless adequate MOBILE6-derived budgets are in place. If the State fails to meet its commitment to submit revised budgets using MOBILE6, EPA could make a finding of failure to implement the SIP, which would start a sanctions clock under CAA Section 179.

EPA is also proposing to clarify what will occur if the EPA finalizes approval of these budgets based on the States's commitments to revise the budgets in the future. If this occurs, the approved SIP budgets will apply for conformity purposes only until the revised budgets have been submitted and the EPA has found the submitted budgets to be adequate for conformity purposes.

In other words, when the State fulfills its commitment to submit revised budgets, if the EPA finds those budgets to be adequate for conformity purposes, those revised budgets will apply for conformity purposes as soon as affirmative adequacy findings are effective. Provided these revised budgets are submitted as revisions for the same years as the budgets in the attainment demonstration and ROP plan respectively, they would also replace the budgets in those approved plans at the time that the affirmative adequacy findings are effective.

Since the EPA is proposing to approve the budgets that were submitted only because the State has committed to revise these budgets, EPA wants its approval of these budgets to last only until adequate revised budgets are submitted pursuant to the commitments. EPA believes the revised budgets should apply as soon as they are found adequate. EPA does not believe it is necessary to wait until they have been approved as revisions to the respective plan. This is because EPA knows now that if the revised budgets are found adequate, they will be more appropriate than the originally approved budgets for conformity purposes.

EPA also recognizes that an accurate estimate of the benefits of the Tier II/Low Sulfur program can not be made until the MOBILE6 model is officially released. EPA is proposing to approve budgets based on interim approximations of Tier II/Low Sulfur benefits only because the State is committing to recalculate the budgets using MOBILE6 in a timely fashion. According to this proposal, revised budgets could be used for conformity after the EPA has completed the adequacy review process, provided the submitted budgets are deemed adequate.

If revised budgets raise issues about the sufficiency of the attainment demonstration, EPA will work with the State on a case-by-case basis. If the revised attainment demonstration budgets show that the revised budgets are lower than EPA is proposing to approve today, a reassessment of the attainment demonstration would need to be done before the State could reallocate any of the emission reductions or assign them to a budget as a safety margin. In other words, the State must assess how its original attainment demonstration is impacted by using MOBILE6 vs. MOBILE5 before it reallocates any apparent motor vehicle emission reductions resulting from the use of MOBILE6.

This proposed rule does not propose any change to the existing transportation conformity rule or to the way it is normally implemented with respect to other submitted and approved SIPs, which do not contain commitments to revise the budgets.

D. Are the Illinois Emissions Budgets Adequate for Conformity Purposes?

Illinois motor vehicle emission budgets for both ROP and the attainment demonstration were posted on the EPA Web site for the 30-day public comment period http://www.epa.gov/otaq/traq). The comment period associated with the Web posting closed February 9, 2001. We received no comments on the adequacy of either the ROP or attainment budgets. The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). We've described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision''). We followed this guidance in making our adequacy determination.

EPA reviewed the State's 2002, 2005 and 2007 motor vehicle emission budgets and found these budgets adequate in a letter dated May 31, 2001. Our review indicated that the budgets meet the adequacy criteria in 93.118 of the Transportation Conformity Regulations (a support document with the review is included in the docket). In light of the commitment to revise the 2007 attainment budgets for VOC and NO_X, EPA also found the 2007 attainment budgets adequate in the May 31, 2001, letter. The **Federal Register** notice announcing this adequacy finding was published on June 15, 2001. In today's proposed rule, EPA is proposing to approve the ROP and attainment demonstration budgets for conformity purposes and the State's commitment to revise these budgets using MOBILE6. This approval will only last until the State submits revised budgets derived using MOBILE6 and we find the revised budgets to be adequate as discussed in the previous section.

X. Reasonably Available Control Measure (RACM) Analysis

A. What Are the Requirements for RACM?

Section 172(c)(1) of the Act requires SIPs to contain RACM as necessary to provide for attainment. EPA has previously provided guidance interpreting the RACM requirements of 172(c)(1). See 57 FR 13498, 13560. In that guidance, EPA indicated its interpretation that potentially available measures that would not advance the attainment date for an area would not be considered RACM. EPA concluded that a measure would not be reasonably available if it would not advance attainment. EPA also indicated in that guidance that states should consider all potentially available measures to determine whether they were reasonably available for implementation in the area, and whether they would advance the attainment date. Further, states should indicate in their SIP submittals whether measures considered were reasonably available or not, and, if measures are reasonably available, they must be adopted as RACM. Finally, EPA indicated that states could reject potential RACM measures either because they would not advance the attainment date, would cause substantial widespread and long-term adverse impacts, or for various reasons related to local conditions, such as economics or implementation concerns. The EPA also issued a recent memorandum on this topic, ''Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas.'' John S. Seitz, Director, Office of Air Quality Planning and Standards. November 30,

1999. Web site: http://www.epa.gov/ttn/oarpg/t1pgm.html.

B. How Does This Submission Address the RACM Requirement?

The Chicago attainment demonstration addresses RACM through several aspects of the submittal. Mobile source measures are addressed with the ongoing and continuous evaluation and implementation of Transportation Control Measures (TCMs) in the Chicago area and by including reasonably available TCMs in the SIP. Stationary sources and area sources have been addressed by Illinois by first applying regulations to control emissions and more creatively through the Illinois trading program which caps emissions with a decreasing emissions cap and allows the market system to determine the most reasonably available control measures. Also, Illinois has adopted control measures which have gone beyond the federally mandated stationary and area source controls. Perhaps most importantly, the Chicago attainment demonstration contains UAM modeling which demonstrates that the Chicago area cannot attain solely through reductions in the Chicago nonattainment area. The Chicago area relies on background reductions of transported ozone to attain the 1-hour ozone standard. To demonstrate attainment of the 1-hour ozone standard, the LADCO ozone modeling tested emission reductions on the order of 50–60% for VOCs in the severe nonattainment areas. Any potential emission reductions from additional potential RACM measures are very small compared to the ROP emission reductions that will be reached by the 2007 attainment date. Also, every reasonably available measure has been used to reach the ROP reduction.

The Consideration and Implementation of Transportation Control Measures (TCMs)

The following paragraphs describe the process that has been used to evaluate and implement reasonably available TCMs in the Chicago area. The Illinois Environmental Protection Agency (IEPA) has worked extensively with the Chicago Area Transportation Study (CATS), which is the Metropolitan Planning Organization (MPO) for Chicago to evaluate and implement TCMs which are reasonably available. IEPA heads the TCM Taskforce which identified TCMs and works to promote and implement TCMs for SIP credit. IEPA has been an active participant in the evaluation of TCMs for funding with the Congestion Mitigation and Air Quality (CMAQ) Program. The CMAQ program funds are administered by the Federal Highway Administration, however selection of projects takes place at the local MPO level. Most if not all of the TCMs in the SIP have had partial funding from the CMAQ program. Projects are ranked based on the air quality benefits of each project.

The Illinois SIP has approved TCMs which are credited in both the 15% Rate of Progress plan (62 FR 66279) and the post 1996 ROP. The first TCMs to be approved into the Illinois SIP were approved in 1995 as part of the VMT offset SIP (60 FR 48896). The 127 TCMs which were approved included commuter parking, a rideshare program, new rapid transit service, signal coordination projects, an improved vanpool program, and new transportation centers and train station reconstruction. Since that time, additional TCMs have been implemented and added to the SIP. Additional TCMs were approved into the SIP when the 9 percent post-1996 ROP plan was approved in the December 18, 2000, **Federal Register** (65 FR 78961). These included improved public transit, such as fixed guideway transit and rail station improvements, traffic flow improvements, increased park and ride service, much needed parking at transit stations, and bicycle and pedestrian programs.

CATS has prepared a series of reports which evaluate emissions benefits from various TCMs and has reported on the implementation of TCMs in the Chicago area. These reports include:

''Transportation Control Measures Committal to the State Implementation Plan'' dated November 5, 1992;

''Transportation Control Measures Contribution to the 15% Rate of Progress State Implementation Plan'' dated December 9, 1993;

''Transportation Control Measures Contribution to the Control Strategy State Implementation Plan'' dated March 9, 1995;

''Transportation Control Measures Contribution to the post 1996 Rate of Progress State Implementation Plan'' dated March 22, 1996;

''Transportation Control Measures Contribution to the 9% Control Strategy State Implementation Plan'' dated June 11, 1998; and

''1999 Transportation Control Measures Contribution to the 9% Rate of Progress Control Strategy State Implementation Plan'' dated December 9, 1999.

These reports have been submitted by the IEPA as part of the documentation for the SIP and are contained in the docket for this action. The EPA has concluded that, through this process of TCM evaluation and selection, Illinois has considered and implemented all reasonably available TCMs. Any measures that have not been included would provide only marginal air quality improvements at significantly greater expense or with significant implementation barriers.

Stationary Source and Area Sources RACM Analysis

Illinois has examined all sources in the nonattainment area for possible reductions. Illinois, through the 15 percent ROP plan, 9 percent post-1996 ROP plan and the continuing 3 perent per year emission reductions, has required emission controls on a wide variety of sources and has gone beyond the Federally mandated requirements for a severe ozone nonattainment area. Illinois, in cooperation with the other Lake Michigan States of Indiana, Wisconsin and Michigan, worked to consider regional control measures and strategies to bring the four state Lake Michigan area into attainment of the ozone standard. The control measures considered were part of the Lake Michigan Ozone Control Program (LMOP). The purpose of the documents included, ''to insure that no reasonable control measures were omitted from consideration and to establish a process to analyze and assess the potential impacts of each control measure in objective and equitable manner''. Initially, a large number of control measures which reduced VOC and/or NO_X emissions were examined in white papers prepared and distributed for public comment. The measures were then evaluated and ranked for modeling as part of the attainment demonstration modeling.

The State considered an extensive list of potential control measures and chose measures which went beyond the Federally mandated controls, which were found to be cost effective and technologically feasible. Illinois chose to tighten RACT standards beyond levels required by the CAA, as well as to adopt rule effectiveness improvement requirements, marine vessel loading controls, autobody refinishing emission limitations, and underground gasoline storage tank breathing controls. All of these regulations went beyond Federally mandated controls and are documented in the State's submittals.

These creditable measures amounted to 297 TPD of VOC emissions reductions in the Chicago ozone nonattainment area. The 15 percent ROP plan achieved 47 TPD of VOC reductions in excess of that needed to meet the 15 percent ROP requirements, which were then used toward the next

set of ROP reduction requirements. After implementing all the above mentioned reasonable regulations on stationary sources, Illinois developed and implemented a unique VOC emissions trading program called the Emission Reduction Market System (ERMS), designed to achieve a 12 percent VOC reduction in emissions from participating sources beyond the reductions already implemented. Illinois developed the ERMS program because all reasonably available control measures had been identified and implemented in the previous ROP and only measures achieving small reductions in VOCs, resulting in high cost effective values, were left. The few remaining point source measures that Illinois included in the 9 percent post-1996 ROP plan were municipal solid waste landfill controls, reductions from application of a batch process control rule for Synthetic Organic Chemical Manufacturing Industries for one specific source, and control of benzene at coke ovens. Illinois also included one area source rule, which was a two-phase control of cold cleaning degreaser solvents. The 9 percent post-1996 ROP plan for Chicago provided 157 TPD of VOC reductions in the nonattainment area and 262 TPD of NO_X reductions from outside the nonattainment area.

Illinois states that ''LADCO and the four States evaluated all of these measures to determine if any reasonably available VOC measures had been overlooked, but none were found.'' Emission reductions from any other potential RACM measures are relatively small. Certainly far less than the ROP reductions and the reductions that were modeled by LADCO in the Lake Michigan area ozone attainment demonstration.

Based on reviews of the State's analysis of measures and lists of control measures which have been implemented in other nonattainment areas, EPA believes that there are no other measures that Illinois could have implemented that would have substantially accelerated attainment. EPA is not aware of other practicable measures which will result in comparable emissions reductions that can be implemented sooner than those contained in Illinois's ozone attainment demonstration and ROP plans.

Modeling Analysis

Furthermore, the State's air quality modeling results indicate that additional VOC and NO_X controls within the nonattainment area will not accelerate attainment of the ozone standard. Air quality modeling was conducted by the LADCO for the four Lake Michigan States. LADCO and the four States also conducted special monitoring of ozone and ozone precursors to support the attainment demonstration modeling efforts. A significant conclusion of the monitoring study is that there are high levels of ozone and ozone precursors entering the Lake Michigan region. The peak boundary ozone concentrations were measured to be on the order of 70–110 ppb on some hot summer days. This transported ozone significantly contributes to ozone exceedances in the region. Elevated ozone levels were found to extend well upwind of the Lake Michigan region, covering large areas of the eastern United States. These observations and those for other areas led to the OTAG effort.

The initial LADCO modeling and sensitivity tests found VOC emissions in the nonattainment area would need to be reduced as much as 90 percent to provide for attainment if the transported ozone was not reduced. However, if reductions in boundary conditions were considered, the VOC reduction target is still very high, on the order of 50–60 percent depending on the boundary conditions. Illinois has already explored all possible RACM to find reductions for the ROP, and any other possible VOC reductions from sources in the Chicago area would not be enough to reach attainment or advance the attainment date.

Illinois has submitted these modeling analyses in the Phase I and II attainment demonstration submittals. The results of modeled reductions in emissions within the nonattainment area did not demonstrate attainment of the ozone standard, and, therefore, these emission reductions alone could not advance the attainment date. It was only when the boundary conditions were changed that the modeling demonstrated attainment. The long range transport of ozone and precursor emissions from upwind of the area were the significant contributor to the nonattainment problem. Air quality modeling which EPA performed in association with the NO_X SIP Call, (63 FR 57356), confirmed the States' analyses. These modeling runs conclusively show that the Chicago area cannot attain the ozone standard without the NO_X SIP Call measures to reduce transported ozone. The final attainment demonstration supports the conclusion that regional, statewide NO_X controls on EGUs, large non-EGU boilers and turbines, and cement kilns, that are to be implemented in order to comply with EPA's NO_X SIP Call, will lower peak ozone concentrations in Grid M and in the modeling domain. The earlier modeling indicates that further reductions of NO_X in the nonattainment area would not be as productive, however, as VOC reductions in the nonattainment area which will be realized through the ROP reductions.

The LADCO Technical Support Documents for the subregional modeling analysis, as discussed above, contains a variety of control strategies modeled to evaluate their impact on ozone air quality. Of particular importance is the sensitivity/strategy run SR1a, which evaluated the impact of one of the more substantial VOC reduction measures, Tier II/Low sulfur gasoline. This measure was calculated to provide a VOC reduction of 5.7 TPD in 2007 for Illinois. The modeling results indicate that the improvement in ozone air quality from this measure only provides a 1–2 ppb ozone concentration improvement on some ozone days. Any of the VOC control measures that were not selected for implementation as part of Illinois' ROP plan or attainment plan are significantly smaller than the Tier II/Low sulfur control measure. Thus, their contribution to improving ozone air quality would be much less than 1 ppb and would not advance attainment of the ozone standard earlier than 2007.

As previously described, the modeling analyses submitted by Illinois and conducted by LADCO showed that it was only when the States tested the impacts of NO_X emission reductions beyond the boundaries of the nonattainment area that the modeling indicated improvements in air quality to the degree necessary to attain the standard. In other words, the transport of ozone and precursor emissions from upwind areas significantly contribute to the Chicago and Lake Michigan States nonattainment problem. Air quality modeling which EPA performed in association with the NO_X SIP Call, (63 FR 57356), confirmed the states' analyses.

Illinois held public hearings on these materials and took public comment on the modeling and conclusions. In the documentation materials, Illinois makes a case that all reasonable measures have been implemented and included in the attainment demonstration. Any measures that have not been included would provide only marginal air quality improvements, and at significantly greater expense. Additional control measures beyond the 3 percent per year post-1999 ROP emission controls in the Chicago area are, therefore, not considered RACM since the reasonable implementation of such measures will not significantly improve air quality and, to make a significant impact, such measures would be draconian in nature.

Thus, the Chicago area relies on emission reductions from outside the nonattainment area that will result from EPA's NO_X SIP Call or section 126 rule (65 FR 2674, January 18, 2000) to reach attainment. In the NO_X SIP Call, 63 FR 57356, EPA concluded that reductions from various upwind states were necessary to provide for timely attainment in various downwind states. The NO_X SIP Call therefore established requirements for control of sources of significant emissions in all upwind states. However, these reductions were not slated for full implementation until May 2003. Further, the United States Court of Appeals for the District of Columbia Circuit recently ordered that EPA could not require full implementation of the NO_X SIP Call prior to May 2004. *Michigan, et al.,* v. *EPA,* D. C. Cir. No. 98–1497, Order of Aug. 30, 2000. All of the necessary VOC reductions that are modeled in the attainment demonstration for the Chicago area will not be in place until 2007. Thus the attainment demonstration modeling indicates that the area will need until the 2007 attainment date to successfully complete the emissions reductions necessary to reach attainment.

C. Does the Chicago Attainment Demonstration Meet the RACM Requirement?

We have reviewed the submitted attainment demonstration documentation, the process used by the MPO and State to review and select TCMs, other possible reduction measures for point and area sources and the emissions inventory for the Chicago area. Although EPA encourages areas to implement available RACM measures as potentially cost effective methods to achieve emission reductions in the short term, EPA does not believe that section 172(c)(1) requires implementation of potential RACM measures that either needlessly require costly implementation efforts or produce relatively small emissions reductions that will not be sufficient to allow the area to achieve attainment in advance of full implementation of all other required measures.

The attainment demonstration for the Chicago area indicates that the ozone benefit expected to be achieved from regional NO_X reductions (such as the NO_X SIP Call) is substantial. In addition, many of the measures designed to achieve emissions reductions from within the nonattainment area will also not be fully implemented prior to the 2007 attainment date. Therefore, we conclude, based on the available documentation, that since the emission reductions from potential RACM measures do not nearly equate to the emission reductions needed to demonstrate attainment, none of these measures could advance the attainment date prior to full implementation of the NO_X SIP Call rules and full implementation of the ROP measures and, thus, there are no additional potential local measures that can be considered RACM for this area. Additionally, the area cannot advance the attainment date because all of the emission reductions (3 percent per year up to the 2007 attainment year) have been modeled in the attainment demonstration modeling and all the reductions are needed to reach attainment of the 1-hour ozone standard. All of the ROP measures will not be fully implemented until the 2007 attainment date and, thus, no additional potential RACM measures could advance the attainment date.

XI. Responses to Public Comments

A number of comments were submitted to the EPA with regard to the December 16, 1999 (64 FR 70496). Responses to those comments will be included in the final rulemaking discussed along with the comments on this proposed rule. The EPA is not reopening the comment period on the December 16, 1999 proposed rule.

XII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental

for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 27, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–16937 Filed 7–10–01; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Wednesday,
July 11, 2001

Part III

Department of Housing and Urban Development

Notice of Funding Availability Housing Search Assistance Program Fiscal Year 2001; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4627–N–01]

Notice of Funding Availability Housing Search Assistance Program Fiscal Year 2001

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: *Purpose of the Program.* The purpose of the Housing Search Assistance Program (HSAP) is to assist housing choice voucher families in expanding their housing opportunities and in accessing lower-poverty neighborhoods through their receipt of housing counseling and supportive services from public housing agencies (PHA) partnering with nonprofit organizations. The counseling services will provide eligible families with information about a wide range of housing options, including options in lower-poverty neighborhoods, so that the families may make informed decisions in selecting housing and move closer to job sites, public transportation, shopping, schools, training opportunities and family/friends support networks. The program will also provide supportive services to help recipients comply with private owner rental lease requirements, housing quality standards (HQS) and other family obligations under the voucher program, remain stably housed, and successfully adjust to their new communities.

Available Funds. The approximately $10 million in housing choice voucher program administrative fees available under this NOFA will support funding for up to 15 eligible applicants for three years for HSAP activities.

Eligible Applicants. Public Housing Agencies (PHAs) that submit an application with one or more nonprofit organizations as the co-applicant (including but not limited to faith-based and other community-based organizations) for the provision of housing counseling services and related supportive services. Indian Housing Authorities (IHA), Indian tribes and their tribally designated housing entities are not eligible. The Native American Housing Assistance and Self-Determination Act of 1996 does not allow HUD to enter into new Section 8 (housing choice voucher) annual contributions contracts (ACC) with IHAs after September 30, 1997.

Application Deadline. October 9, 2001.

Match. None

Additional Information

If you are interested in applying for funding under the HSAP, please read this NOFA which will provide you with detailed information regarding the submission of an application, HSAP requirements, the application selection process to be used in selecting applications for funding, and other valuable information relative to participation in the HSAP.

I. Application Due Date, Application Kits, Further Information, and Technical Assistance

Application Due Date. Your completed application (an original and one copy) is due on or before October 9, 2001, at the address shown below. This application deadline date is firm. In the interest of fairness to all competing applicants, HUD will not consider any application that is received after the application deadline. Applicants should take this practice into account and submit their applications early to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent via facsimile (FAX) transmission.

Address for Submitting Applications. Submit your original application and one copy to Michael E. Diggs, Director of the Grants Management Center, Department of Housing and Urban Development, 501 School Street, SW., Suite 800, Washington, DC 20024. The Grants Management Center is the official place of receipt for all applications in response to this NOFA. A copy of your application is not required to be submitted to the local HUD Field Office. For ease of reference, the term ''local HUD Field Office'' will be used throughout this NOFA to mean the local HUD Field Office Hub and local HUD Field Office Program Center.

Hand Carried Applications. Hand carried applications must be delivered to the Grants Management Center by not later than 8:45 am to 5:15 pm, Eastern time, on the application deadline date. After 5:15 pm on the application deadline date, applications will be accepted in the South Lobby of HUD Headquarters, 451 Seventh Street, SW., Washington, DC 20410, until 12:00 midnight, Eastern time.

Mailed Applications. Applications sent by U.S. mail will be considered timely filed if postmarked on or before 12:00 midnight on the application due date and received on or within ten (10) days of that date at the Grants Management Center.

Applications Sent By Overnight/Express Mail Delivery. Applications sent by overnight delivery or express mail will be considered timely filed if received by the Grants Management Center on or before the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

For Application Kit. An application kit is not available and is not necessary for submitting an application for funding under this NOFA. This NOFA contains all of the information necessary for the submission of an application in connection with this NOFA.

For Further Information and Technical Assistance. Prior to the application due date, you may contact George C. Hendrickson, Housing Program Specialist, Room 4216, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1872, ext. 4064. Subsequent to application submission, you may determine the status of your application by contacting the Grants Management Center at (202) 358–0273. (These are not toll-free numbers.) Persons with hearing or speech impairments may access these numbers via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339 (this is a toll free number).

II. Authority, Purpose, Amount Allocated, Voucher Funding, and Eligibility

(A) Authority

The authority for the funding available for the HSAP is found in the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105–276, approved October 21, 1998), referred to in this NOFA as the FY 1999 HUD Appropriations Act). The FY 1999 HUD Appropriations Act refers to the funding being made available as for ''regional opportunity counseling.'' In lieu of this description, HUD is calling the program funded under this appropriation the Housing Search Assistance Program (HSAP), as this title better encompasses the housing counseling and related supportive services for which funding is being announced as available under this NOFA.

(B) Purpose

The HSAP is a program under which a PHA, with a co-applicant nonprofit organization(s), will be provided

funding for housing counseling and other supportive services to assist families in expanding their housing opportunities. Each funded PHA (as the lead applicant in the application) will be required to enter into a memorandum of understanding (MOU) with a nonprofit organization(s) to provide housing counseling and/or related supportive services to housing choice voucher families. There is no requirement that the PHA enter into a MOU with a nonprofit organization(s) for the nonprofit organization's provision of all housing counseling and supportive services, although this would be acceptable. The ideal application would build on the existing strengths of the PHA and nonprofit(s) and modestly expand the capacity of these organizations to provide housing counseling and related supportive services. To ensure the program runs smoothly, it is essential that the relative roles and responsibilities of the PHA and the nonprofit organization(s) be defined clearly in the application.

The housing counseling services provided through the program will give eligible families information about a wide range of housing options in neighborhoods throughout a metropolitan area, including lower-poverty neighborhoods, so that the families may make informed decisions about the selection of housing and move closer to job sites, job training, schools, child care, public transportation, shopping, and family/friends support networks. This will be accomplished through a combination of intensive counseling of families and outreach to landlords. In addition, the provision of (or provision of links to) supportive services to help participating families comply with private owner rental lease requirements, housing quality standards (HQS) and other family obligations under the voucher program, remain stably housed, and successfully adjust to their new communities are vitally important. In many cases, nonprofit organizations will be well-positioned to provide these services.

Each PHA must ensure that it, as well as the nonprofit(s) with which it enters into an MOU, uses the funding under this NOFA only for those families eligible under this NOFA and may not counsel families for which the PHA is funded from other sources; e.g., funds provided by HUD to assist and to counsel families benefiting from the settlement of litigation or involving desegregation.

(C) Amount Allocated

This NOFA announces the availability of $10 million in housing choice voucher administrative fees for the HSAP which will provide funding for up to 15 PHAs for a period of three years. Applicants will be limited to applying for no more than the maximum dollar amount indicated below based on the current size of the PHA's housing choice voucher and certificate program.

(1) PHA with 1250 or more vouchers/certificates: $1,000,000 maximum.

(2) PHA with 500 to 1249 vouchers/certificates: $600,000 maximum.

(3) PHA with less than 500 vouchers/certificates: $150,000 maximum.

(D) Eligible Applicants

A PHA established pursuant to State law, including regional (multicounty) or State PHAs, with an existing housing choice voucher or certificate program may apply for funding under this NOFA if it has a nonprofit organization(s) (including, but not limited to a faith-based or other community-based organization) with which it has entered into an MOU for housing counseling and related supportive services (contingent upon the PHA's receipt of funding under this NOFA), and falls into either of the following two categories under HUD's interim rule published in the **Federal Register** (FR–4606–I–01) on October 2, 2000, on ''Increased Fair Market Rents and Higher Payment Standards for Certain Areas:''

(1) A PHA in any of the 39 metropolitan areas for which fair market rents (FMR) will now be based on the 50th percentile: i.e., those large metropolitan areas where voucher holders are concentrated in a relatively small number of census tracts and low-rent housing is not well-distributed throughout the metropolitan area. The 39 metropolitan areas are listed in a notice published in the **Federal Register** (FR–4589–N–03) on October 6, 2000; i.e., those metropolitan areas where families have experienced difficulty in renting housing in low-poverty areas.

(2) A PHA eligible to use a Success Rate Payment Standard based on the 50th percentile rent; i.e., a PHA whose voucher holders have had less than a 75 percent success rate in locating a unit to rent, despite having increased the payment standards to 110 percent of the FMR. To be funded under this category, a PHA must be eligible for the Success Rate Payment Standard under the terms of the October 2, 2000 interim rule and Notice PIH 2001–1 (PHA). The PHA need not have applied to utilize the higher payment standards.

Indian Housing Authorities, Indian tribes and their tribally designated housing entities are not eligible to apply because the Native American Housing Assistance and Self-Determination Act of 1996 does not allow HUD to enter into new Section 8 (housing choice voucher) annual contributions contracts (ACC) with IHAs after September 30, 1997.

Some PHAs currently administering housing choice vouchers and certificates have, at the time of publication of this NOFA, major program management findings from Inspector General audits, HUD management reviews, or Independent Public Accountant (IPA) audits that are open and unresolved or other significant program compliance problems. HUD will not accept applications for funding from these PHAs as contract administrators if, on the application deadline date, the findings are either not closed, or sufficient progress toward closing the findings has not been made to HUD's satisfaction. The PHA must also, to HUD's satisfaction, be making satisfactory progress in addressing any program compliance problems. If any of these PHAs want to apply for the HSAP, the PHA must submit an application that designates another housing agency, nonprofit agency, or contractor that is acceptable to HUD. The PHA application must include an agreement by the other housing agency or contractor to administer the program for the new funding on behalf of the PHA and a statement that outlines the steps the PHA is taking to resolve the program findings and program compliance problems. Immediately after the publication of this NOFA, the Office of Public Housing in the local HUD Office will notify, in writing, those PHAs that are not eligible to apply because of outstanding management or compliance problems. Concurrently, the local HUD Field Office will provide a copy of each such written notification to the GMC. The PHA may appeal the decision if HUD has mistakenly classified the PHA as having outstanding management or compliance problems. Any appeal must be accompanied by conclusive evidence of HUD's error (i.e., documentation showing that the finding has been cleared or satisfactory progress toward closing the findings or addressing compliance problems has been made) and must be received prior to the application deadline. The appeal should be submitted to the local HUD Field Office where a final determination shall be made. Concurrently, the local HUD Field Office shall provide the GMC with a copy of its written response to the appeal, along with a copy of the PHA's written appeal. Major program management findings are those that would cast doubt on the capacity of the

PHA to effectively administer the HSAP funding being made available under this NOFA.

III. General Requirements and Requirements Specific to the HSAP

(A) General Requirements

(1) *Compliance With Fair Housing and Civil Rights Laws.* All applicants, and co-applicants must comply with all fair housing and civil rights laws, statutes, regulations, and executive orders as enumerated in 24 CFR 5.105(a). If an applicant/co-applicant: (a) Has been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act, the applicant's/co-applicant's application will not be evaluated under this NOFA if, prior to the application deadline, the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken necessary to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(2) *Additional Nondiscrimination Requirements.* In addition to compliance with the civil rights requirements listed at 24 CFR 5.105(a), each successful applicant/co-applicant must comply with the nondiscrimination in employment requirements of Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*), the Equal Pay Act (29 U.S.C. 206(d)), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*), Title IX of the Education Amendments Act of 1972, and Titles I and V of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

(3) *Affirmatively Furthering Fair Housing.* Applicants have a duty to affirmatively further fair housing. Applicants will be required to identify the specific steps that they will take to:

(a) Examine the PHA's own programs or proposed programs, including an identification of any impediments to fair housing (identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice in its Consolidated Plan); develop a plan to (i) address those impediments in a reasonable fashion in view of the resources available; and (ii) work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and maintain records reflecting these analyses and actions;

(b) Remedy discrimination in housing; or

(c) Promote fair housing rights and fair housing choice.

(4) *Certifications and Assurances.* All applicants are required to submit signed copies of Assurances and Certifications. The standard Assurances and Certifications are on Form HUD–52515, Funding Application, which includes the Equal Opportunity Certification, Certification Regarding Lobbying, and Certification Regarding Drug-Free Workplace Requirements.

(5) *Disabled Accessibility.* All applicants and co-applicants funded under this NOFA will make offices used for housing counseling or related supportive services accessible to persons with a wide range of disabilities.

(6) *Requirements Applicable to Faith-Based Organizations.* Where a PHA proposes to contract for HSAP services with a primarily religious organization, or a wholly secular organization established by a primarily religious organization, the co-applicant(s) must ensure that it will adhere to the following principles which state: (a) The Organization will not discriminate against any segment of the population in the provision of services or in outreach, including those of other religious affiliations; (b) The organization will not provide religious instruction or religious counseling, conduct religious services or worship, engage in religious proselytizing, and/or exert religious influence in the provision of assistance for this program.

(B) Requirements Specific to the Housing Search Assistance Program

(1) *Definitions.*

(a) Eligible Family. A family is eligible to receive housing counseling and related supportive services under the HSAP if the family is a current participant in the housing choice voucher or certificate program, or if the family has received a housing choice voucher from the PHA to search for a unit. Housing counseling and related supportive services must be provided to these eligible families in the following order:

(i) Families that currently receive income from work or are currently work-ready; i.e., enrolled in an education or job training program. (However, a family must also be given the benefit of this preference for housing counseling and related supportive services if the head or spouse, or sole member is age 62 or older, or is a person with disabilities.)

(ii) All other eligible families. The other eligible families may be ranked at the PHA's discretion to meet the PHA's goals for policies established in its administrative plan.

(b) Nonprofit Organization. An organization, no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual that provides housing counseling and/or related supportive services and has received a federal tax-exempt designation from the U.S. Internal Revenue Service. The nonprofit organization must:

(i) Have a voluntary board;

(ii) Be authorized by its charter or State law to enter into a contract with an organization such as a PHA to provide housing counseling and/or related supportive services;

(iii) Have a functioning accounting system that is operated in accordance with generally accepted accounting practices, or designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles; and

(iv) Practice affirmative marketing and nondiscrimination in the provision of assistance.

(2) *PHA/Nonprofit Organization Partnership and MOU.* Any PHA wishing to submit an application under this NOFA must enter into a memorandum of understanding (MOU) with a nonprofit organization(s) (including, but not limited to faith-based and other community organizations) for the purpose of clearly delineating the roles and responsibilities of the parties in providing specific types of housing counseling and related supportive services (see section III(B)(3) and (4) of this NOFA) to eligible families with funds under this NOFA. The MOU must be dated and signed by authorized officials of the PHA and the non-profit(s).

Among the nonprofit organizations that PHAs consider partnering with, they may wish to contact one or more of the HUD-approved housing counseling agencies in their area. There are approximately 1250 such agencies throughout the United States. These agencies may already have some or all of the skills and expertise the PHA is looking for in a nonprofit partner to meet the housing counseling and/or supportive service requirements of this

NOFA. To determine which HUD-approved housing counseling agencies may be operating in a PHA's geographic area, it can view the State listings of such agencies on the internet at www.hudhcc.org. Click on ''Housing Counseling Agency Directory.''

The PHA shall submit the application to HUD on behalf of itself and the nonprofit organization(s).

(3) *Housing Counseling Services Responsibilities.* Either directly or indirectly through their nonprofit partners, PHAs funded under this NOFA must provide housing counseling services to assist housing choice voucher families in expanding their housing opportunities and in accessing lower-poverty neighborhoods. Funding provided under this NOFA must be used to augment, rather than supplant, the counseling services that PHAs are already required to provide under current housing choice voucher program rules and must seek to avoid unduly concentrating assisted families in high poverty neighborhoods. The following are examples of housing counseling services that may be funded under this NOFA:

(a) Outreach to private landlords in lower-poverty neighborhoods (those neighborhoods where the concentration of families at or below the poverty level is less than 20 percent) throughout the metropolitan area. Examples of the types of outreach efforts that could be funded under this NOFA include the following:

(i) Solicit the participation of owners and managers of housing in lower-poverty areas.

(ii) Network with real estate boards, property management associations, real estate brokers, human relations commissions, and/or other groups or agencies that can assist in locating owners and managers willing to participate in the HSAP.

(iii) Prepare materials to explain the voucher program and the HSAP to owners and managers.

(iv) Conduct seminars for owners and managers on the voucher program, fair housing and the HSAP.

(b) Provide counseling services to help families identify and apply for units in lower-poverty neighborhoods.

(c) Provide counseling services to help acquaint families with the benefits of living in particular lower-poverty neighborhoods in the metropolitan area.

(d) Review eligible families for credit reports, housekeeping skills and criminal backgrounds to ensure suitability for counseling services;

(e) Conduct home visits and escort families to potential units selected by the families;

(f) Assist families with transportation to facilitate their visiting potential units;

(g) Assist families in discussions with landlords regarding lease provisions and suitability of the unit during the housing search;

(h) Monitor activities for compliance with fair housing laws and the requirement that owners of tax credit developments not discriminate against families in the voucher program, and refer complaints of discrimination to the local HUD Field Office or to State and local agencies participating in the Fair Housing Assistance Program.

(i) Reduce any community tension that may exist, as regards the voucher program, by conducting sensitivity training with local police departments, schools, community groups, and businesses to educate them about the voucher program, assisted families and fair housing; establish a mentoring program where current voucher program participants provide support to new participants; and provide conflict resolution services, if needed.

(4) *Supportive Services Responsibilities.* Either directly or indirectly through their nonprofit partners, PHAs funded under this NOFA must provide supportive services to help the voucher program participants receiving housing counseling to comply with private owner rental lease requirements, housing quality standards (HQS) and other family obligations under the voucher program, remain stably housed, and successfully adjust to their new communities. Supportive services may be needed both before a family moves into a new neighborhood (such as to ensure a smooth transition and to educate the family about the services available in a community), and after the family has moved in. Families that move to new communities may need help finding child care, securing transportation and other services. The following are examples of supportive services that may be funded under this NOFA:

(a) Provide counseling and referrals to families on opportunities for education, training, child care, medical care, transportation and employment in lower-poverty neighborhoods.

(b) Refer families to organizations capable of assisting them with moving costs, security deposits, utility hookup fees, and utility deposits. (Note: Funds provided under this NOFA cannot be used to pay such costs, deposits or fees for families.)

(c) Counsel families on household cleaning/maintenance skills and knowledge sufficient for a family to remain in compliance with its responsibilities as relates to the housing choice voucher program's housing quality standards (HQS), and the family's responsibilities under its lease with a private owner for the care and use of the unit.

(d) Counsel families on budgeting skills directed at the most efficient use of limited resources in meeting family expenses, with an emphasis on the family's responsibility to pay its portion of the rent to the private owner in a timely manner.

(5) *Program Record Keeping/ Reporting Requirements.*

(a) Record Keeping. In addition to the normal record keeping required for the housing choice voucher program, separate records must be maintained by the PHA and the nonprofit organization for the HSAP. The separate records must demonstrate that funding provided under this NOFA was used to augment, rather than replace, the counseling the PHA is already required to provide under current rules, and that the supportive services funded under this NOFA are in addition to those services the PHA is already providing itself or through outside sources. These records must also be sufficient to capture the information necessary to produce the semiannual reports required under this NOFA's section III(B)(5)(b), Reporting to HUD.

(b) Reporting to HUD. An original and a copy of the following report shall be submitted on a semiannual basis to the Department of Housing and Urban Development, Funding and Financial Management Division, Room 4216, 451 Seventh Street, SW, Washington, DC 20410. Reporting shall commence with the period ending 12/31/01 and shall be submitted to HUD not later than 30 days thereafter. Subsequent reports shall cover a six month period and shall be submitted not later than 30 days following the end of each six month reporting period. Reporting shall reflect cumulative progress made to date since the beginning of the awardee's HSAP, as well as progress exclusive to the last six month period ended. The report must address the following in this regard pertinent to the PHA's and/or nonprofit's provision to eligible families of housing counseling and related supportive services funded under this NOFA:

(i) The number of families counseled/ provided supportive services.

(ii) The number of families counseled/ provided supportive services that were successful in leasing a unit.

(iii) The number of families counseled/provided supportive services that rented a unit in a lower-poverty neighborhood.

(iv) The number of families counseled/provided supportive services that leased a unit in a lower-poverty neighborhood and were still leasing a unit in a lower-poverty neighborhood 13 months later.

(v) The average cost per family (based upon total HSAP expenditures) of (1) providing housing counseling, (2) supportive services, and (3) cumulatively for housing counseling and supportive services.

(vi) The total number of owner outreach contacts by the PHA/nonprofit vs total number of families counseled/receiving supportive services that leased units from these owners, with a separate subtotal for those families leasing units from these owners in lower-poverty areas.

IV. Application Selection Process for HSAP Funding

(A) Selection Criteria and Rating and Ranking

The Office of Public and Indian Housing's Grants Management Center is responsible for rating the applications under the selection criteria in this NOFA, and is responsible for the selection of FY 2001 applications that will receive consideration for assistance under the HSAP. The Grants Management Center, with assistance from the Office of Fair Housing and Equal Opportunity and the Center for Faith-Based and Community Initiatives, will initially screen all applications and determine any technical deficiencies based on the application submission requirements.

Each application submitted in response to this NOFA, in order to be eligible for funding, must receive at least 60 points of the 100 points available under the selection criteria in order to be approvable for funding. Each criterion with no sub-criteria, and sub-criteria under a criterion (some criteria have sub-criteria with individually assigned points) will be evaluated on a pass or fail basis, with either the applicant receiving the full number of points or no points; e.g., 15 or 0. The selection criteria are as follows:

(1) Selection Criterion 1: Capacity of the Applicant and Relevant Organizational Experience (30 points).

Selection Criterion 1 addresses the extent to which the applicant (*including the co-applicant nonprofit organization(s)*) has the organizational resources necessary to implement the applicant's proposed HSAP activities in a timely manner. In determining the rating under this criterion, HUD will consider the extent to which the application demonstrates:

(a) (15 points) The knowledge and experience of the PHA and nonprofit organization's staff in planning and organizing the type of housing counseling and supportive services (eligible to be funded under this NOFA) addressed in the applicant's Memorandum of Understanding (MOU). Experience will be assessed in terms of its relevance to undertake eligible HSAP activities (see section III(B)(3) and (4) of this NOFA). The applicant and co-applicant are expected to have sufficient personnel to deliver the proposed housing counseling and supportive services in a timely and effective manner. Included in the application must be an identification of the professional backgrounds and experience of specific individuals to be involved in providing the housing counseling services and related supportive services addressed in the applicant's MOU.

(b) (15 points) Demonstrated success in attaining measurable progress in the implementation of recent activities similar in scope and complexity to the housing counseling and related supportive services planned to be undertaken with funding under this NOFA as reflected in the applicant's MOU.

(2) Selection Criterion 2: Memorandum of Understanding (MOU) (50 points).

Selection Criterion 2 addresses the quality and effectiveness represented within the applicant's MOU for providing the housing counseling and supportive services eligible for funding under this NOFA. The application for funding under this NOFA must include an MOU executed by authorized officials of the PHA and the nonprofit organization(s) with which the PHA is partnering. The MOU must provide a detailed description of the housing counseling and supportive services (see section III(B)(3) and (4)) to be provided and the roles and responsibilities of the PHA and the nonprofit organization(s) (see section III(B)(2)) in providing the housing counseling and supportive services. The MOU must also include realistic but aggressive performance targets related to the provision of housing counseling and supportive services to families. This is addressed more fully under section IV(A)(2)(a) below of this NOFA.

The MOU must indicate that its provisions are contingent upon the PHA's being funded under this NOFA, and that the PHA will be responsible for monitoring the activities of the nonprofit(s) in connection with its satisfactory delivery of the housing counseling and/or supportive services agreed upon in the MOU. The MOU must also include a description of the priority order in which families will receive services (see section III(B)(1)(a)), as well as a management and staffing plan and budget.

(a) (15 points) Description of the housing counseling and supportive services to be provided (see section III(B)(3) and (4)). In addition, the MOU must also address performance targets related to its provision of housing counseling and supportive services. These performance targets must address anticipated outcomes that are realistic but aggressive for the following performance categories:

(i) The number of families to be counseled/provided supportive services.

(ii) The number of families counseled/provided supportive services that lease a unit with their voucher.

(iii) The number of families counseled/provided supportive services under section (ii) immediately above that lease a unit in a lower-poverty neighborhood.

(iv) The number of families counseled/provided supportive services that lease in a lower-poverty neighborhood and are still leasing a unit in a lower-poverty neighborhood 13 months later.

(b) (15 points) Description of the roles and responsibilities of the PHA and nonprofit organization(s) in providing housing counseling and supportive services (see section III(B)(2)), and the specific activities to be performed in providing these services, including but not limited to:

(i) Screening interviews with families;

(ii) Setting up a family file with intake information and counseling plan;

(iii) Having the family sign an agreement accepting the counseling plan and making a commitment to attend the required counseling sessions.

(c) (5 points) Description of the priority order of families to receive housing counseling and supportive services consistent with section III(B)(1)(a) of this NOFA which establishes the first order of priorities and allows for the establishment of preferences within the order of priorities and to add to the list of priorities. This description must also include an estimate of the number of housing choice voucher holders, as well as current housing choice voucher and certificate participants (current renters), that are anticipated to be eligible for and receive housing counseling and supportive services over the course of the three year implementation period of HSAP.

(d) (15 points) Management and Staffing Plan and Budget. A

management and staffing plan and budget must be provided indicating the major activities to be performed in providing housing counseling and supportive services, the position titles and number of staff to be devoted to providing these services, the number of staff hours to be expended on each activity, and the budgeted costs associated with each of the major activities over the three year period to be covered by the MOU. Included within the major activities should be staff time and associated costs connected with the record keeping and reporting requirements of section III(B)(5) of this NOFA. The budget should also reflect the anticipated number of families who will receive housing counseling and supportive services and the average cost per family for same. HUD anticipates that the average cost per family will be in the range of $1,000 to $1,500. This average cost range is based upon HUD's past experience with housing counseling and supportive services costs, but should not be considered a mandatory minimum or maximum limitation on costs per family. The average cost range was derived by taking total program costs and dividing them by the number of families receiving housing counseling and supportive services.

It is anticipated that immediately following HUD's announcement of awards under this NOFA that some PHAs and nonprofit organizations will require as much as—but should not exceed—six months in which to hire any additional necessary staff, complete nonprofit familiarization with program requirements under the housing choice voucher program, enter into a formal contract with the nonprofit organization(s) for the provision of certain services covered by the MOU, and to otherwise prepare themselves to initiate HSAP services. The budget should reflect any such six month or shorter period of preparation, unless all parties are prepared to immediately begin the provision of HSAP services. Any such six month or shorter preparatory period will be considered to be part of the maximum three year implementation period commencing on the date of award of HSAP funding.

(3) Selection Criterion 3: Leveraging Resources (10 points).

Selection Criterion 3 addresses the applicant's ability to secure private and public resources which can be combined with funding received under the HSAP to support and enhance the housing counseling and supportive services to be funded through the HSAP. Evaluation of this criterion will consider the extent to which the applicant has obtained additional resources, or partnered with other entities (State, Federal or local government, nonprofit organizations, for-profit private organizations, etc.) to secure additional resources, to increase the effectiveness of the housing counseling and supportive services included within the applicant's MOU. Evidence of such partnerships must be supported by letters of firm commitment or other documentation of agreements. Such letters or agreements should include the organization's name, proposed level of commitment, responsibilities as relates to the HSAP, and be signed by an official of the organization legally authorized to make commitments on behalf of the organization.

(4) Selection Criterion 4: Sustainability (10 points).

Selection Criterion 4 requires the applicant to demonstrate how its HSAP will achieve an impact that will be sustained in whole or in part beyond the three year implementation period funded under this NOFA. Credit will be given to applications that demonstrate how the HSAP will achieve an impact that lasts beyond the three year effort funded under this NOFA. Among several ways to achieve a lasting impact include, but are not limited to: (a) The building of capacity to provide housing counseling and related supportive services among entities that commit to continuing this work after the funding is exhausted; (b) the development of a curriculum to educate housing choice voucher participants about the benefits of living in particular lower-poverty neighborhoods; (c) the recruitment of a substantial number of landlords in lower-poverty neighborhoods; (d) the establishment of a revolving fund for security deposits, utility deposits and moving expenses to help families move to lower-poverty neighborhoods, funded through sources other than this NOFA; and (e) the creation of a landlord outreach program to include materials on the housing choice voucher program, HSAP, how to be a responsible landlord, and fair housing.

(B) *Funding FY 2001 Applications.* After the Grants Management Center has screened PHA applications and disapproved any applications unacceptable for further processing (see section VI(A) and (B) of this NOFA), the Grants Management Center, with the assistance of the Office of Fair Housing and Equal Opportunity and the Center for Faith-Based and Community Initiatives, will review and rate all approvable applications, utilizing the Selection Criteria and the point assignments listed in this NOFA. Applications will be ranked for approval/funding based upon highest to lowest score in three PHA size categories. Only those applications scoring not less than 60 points under the Selection Criteria will be considered for funding. A minimal number of awards will be made (contingent upon a sufficient number of approvable applications in each PHA size category), as follows:

(1) Six awards—PHAs with 1250 or more vouchers/certificates. Maximum award of $1,000,000 for each PHA.

(2) Four awards—PHAs with 500 to 1249 vouchers/certificates. Maximum award of $600,000 for each PHA.

(3) Two awards—PHAs with less than 500 vouchers/certificates. Maximum award of $150,000 for each PHA.

Thereafter, remaining funding will be awarded to the next highest ranked application, regardless of the PHA's voucher/certificate program size, until all funding has been exhausted. In the event two or more applications have the same score at this point in the funding selection process and insufficient funds remain to fund all such applications, a lottery shall be held to select the application(s) to be funded.

V. Application Submission Requirements

(A) *Form HUD–52515.* Funding Application, form HUD–52515, must be filled out as indicated below and submitted. Complete the first third of page 1, but sections A, B, C and D and on this first page, and section E at the top of the second page of this four page form should be left blank, as the funding being requested is for housing choice voucher administrative fee funding only and not for housing choice vouchers. PHAs are requested to enter their housing authority code number (for example, CT002), their telephone number, electronic mailing address, and facsimile transmission telephone number in the same place at the top of the form where they are also to enter the PHA's name and mailing address. Section F should not be responded to as this section pertains only to PHAs that do not currently have a housing choice certificate or voucher program (in order to be eligible to apply for the funding available under this NOFA the applicant must already be operating a housing choice voucher or certificate program). This form includes all the necessary certifications for Fair Housing, Drug-Free Workplace and Lobbying Activities. PHAs may obtain a copy of form HUD–52515 from the local HUD Field Office or may download it from the HUD Home page on the internet's world wide web (http://www.hud.gov). On the HUD website click on

''handbooks/forms,'' click on ''forms,'' click on ''HUD–5'' and then click on ''HUD–52515.'' The form must be signed and dated.

(B) *Nonprofit Organization Documentation.* The PHA must submit a letter from the nonprofit organization(s) with which it is entering into an MOU to provide all or some of the housing counseling and supportive services funded under this NOFA. The letter must provide information on the nonprofit organization(s) documenting its legal status as a nonprofit and its legal authority to operate throughout the geographic area comprising the PHA's legally authorized area of operation. Documentation of legal status/authority may include paperwork verifying the U.S. Internal Revenue Service's recognition of the organization as a nonprofit, a legal opinion from an attorney attesting to the nonprofit organization's legal right to deliver housing counseling and supportive services throughout the area comprising the PHA's legally authorized area of operation, or other similar documentation.

(C) *Selection Criteria Information.* The application must include information addressing the four selection criteria in section IV(A) of this NOFA, sufficient for the applicant to receive at least 60 points out of the maximum of 100 points available, in order for the application to be deemed approvable. Applications scoring less than 60 points will be unapprovable and therefore ineligible for funding. Since applications will be selected for funding on the basis of highest to lowest score (see section IV(B) of this NOFA), applicants would be well-advised to thoroughly address all four rating criteria in order to potentially maximize the points their application may receive and thereby improve the chances of their application being funded.

(D) *Statement Regarding the Steps the PHA Will Take to Affirmatively Further Fair Housing.* The areas to be addressed in the PHA's statement should include, but not necessarily be limited to:

(a) An examination of the PHA's own programs or proposed programs, including an identification of any impediments to fair housing (identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice in its Consolidated Plan); and a description of a plan developed to (1) address those impediments in a reasonable fashion in view of the resources available; and (2) work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and the maintenance of records reflecting these analyses and actions;

(b) Remedy discrimination in housing; or

(c) Promote fair housing rights and fair housing choice.

(E) *Moving to Work (MTW) PHA Information and Certification.* See section VI(B)(2)(c) regarding the information to be submitted by an MTW PHA required to report under the Section 8 Management Assessment Program (SEMAP) but not meeting the 95 percent lease-up or budget authority utilization requirements, or the lease-up or budget authority utilization certification to be submitted by an MTW PHA not required to report under SEMAP.

VI. Corrections to Deficient Applications

(A) Acceptable Applications

An acceptable application is one which meets all of the application submission requirements in Section V of this NOFA and does not fall into any of the categories listed in Section VI (B) of this NOFA. The Grants Management Center, with assistance from the Office of Fair Housing and Equal Opportunity and the Center for Faith-Based and Community Initiatives, will initially screen all applications and notify applicants of technical deficiencies by letter, facsimile transmission, or electronic mail. (See section V(A) of this NOFA regarding the information to be provided by applicants regarding their electronic mail address, facsimile transmission telephone number, etc. at the top of form HUD–52515.)

With respect to correction of deficient applications, HUD may not, after the application due date and consistent with HUD's regulations at 24 CFR part 4, subpart B, consider any unsolicited information an applicant may want to provide. HUD may contact an applicant to clarify an item in the application or to correct technical deficiencies. Please note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of a response to any selection factors. In order not to unreasonably exclude applications from being rated and ranked, HUD may contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. Examples of curable (correctable) technical deficiencies include failure to submit the proper certifications or failure to submit an application that contains an original signature by an authorized official. In each case under this NOFA, the Grants Management Center will notify the applicant in writing by describing the clarification or technical deficiency. The applicant must submit clarifications or corrections of technical deficiencies in accordance with the information provided by the Grants Management Center within 14 calendar days of the date of receipt of the HUD notification. (If the due date falls on a Saturday, Sunday, or Federal holiday, your correction must be received by HUD on the next day that is not a Saturday, Sunday, or Federal holiday.) If the deficiency is not corrected within this time period, HUD will reject the application as incomplete, and it will not be considered for funding.

(B) Unacceptable Applications

(1) After the 14-calendar day technical deficiency correction period, the Grants Management Center will disapprove applications that it determines are not acceptable for processing. The Grants Management Center's notification of rejection letter must state the basis for the decision.

(2) Applications that fall into any of the following categories will not be processed:

(a) Applications that do not meet the requirements of Section III(A)(1) of this NOFA, Compliance With Fair Housing and Civil Rights Laws.

(b) The PHA has major Inspector General audit findings, HUD management review findings, or independent public accountant (IPA) findings that are not closed or on which satisfactory progress in resolving the findings is not being made; or program compliance problems on which satisfactory progress is not being made. The only exception to this category is if the PHA has been identified under the policy established in Section II(D) of this NOFA and the PHA makes application with another agency or contractor that will administer the HSAP on behalf of the PHA. Major program management findings or program compliance problems are those that would cast doubt on the capacity of the PHA to effectively administer the HSAP funding being made available under this NOFA.

(c) The PHA has failed to achieve a lease-up rate of 95 percent for its combined certificate and voucher units under contract for its fiscal year ending in 1999. Category (c) may be passed, however, if the PHA achieved a combined certificate and voucher budget authority utilization rate of 95 percent or greater for its fiscal year ending in 1999. In the event the PHA is unable to meet either of these percentage requirements, it may still pass category (c) if it submits

information (following the format of Attachment 1 of this NOFA) to the Grants Management Center, as part of its application, demonstrating that it was able to either increase its combined certificate and voucher lease-up rate to 95 percent or greater for its fiscal year ending in 2000, or was able to increase combined certificate and voucher budget authority utilization to 95 percent or more for its fiscal year ending in 2000. PHAs that have been determined by HUD to have passed either the 95 percent lease-up, or 95 percent budget authority utilization requirement for their fiscal year ending in 1999 will be listed on the HUD Home Page site on the Internet's world wide web (http://www.hud.gov/cio/grants/fundsavail.html) under the Housing Search Assistance Program (HSAP) NOFA. Any eligible applicant not listed must either submit information (following the format of Attachment 1) in its application supportive of its 95 percent lease-up or 95 percent budget authority utilization performance for its fiscal year ending in 2000, or submit information (following the format of Attachment 1) as part of its application supportive of its contention that it should have been included among those PHAs HUD listed as having achieved either a 95 percent lease-up rate or 95 percent funding utilization rate for fiscal years ending in 1999.

Moving to Work (MTW) agencies that are required to report under the Section 8 Management Assessment Program (SEMAP) shall be held to the 95 percent lease-up and budget authority utilization requirements referenced above, except where such an MTW agency provides information in its application demonstrating to HUD that a lower percentage is the result of the implementation of specific aspects of its program under its MTW agreement with HUD. MTW agencies which are not required to report under SEMAP must submit a certification with their application certifying that they are not required to report under SEMAP, and that they meet the 95 percent lease-up or budget authority utilization requirements.

(d) The applicant is involved in litigation and HUD determines that the litigation may seriously impede the ability of the PHA to provide the housing counseling/supportive services under this NOFA, or to otherwise work with the nonprofit in connection with the nonprofit's provision of the housing counseling and related supportive services.

(e) An application that does not comply with the requirements of 24 CFR 982.102 and this NOFA after the expiration of the 14-calendar day technical deficiency correction period will be rejected from processing.

(f) The application was submitted after the application due date.

(g) The application was not submitted to the official place of receipt as indicated in the paragraph entitled ''Address for Submitting Applications'' at the beginning of this NOFA.

(h) The applicant has been debarred or otherwise disqualified from providing assistance under the program.

(i) The applicant has failed to achieve a minimum 85 percent submission rate for housing choice voucher and certificate resident records to HUD's Multifamily Tenant Characteristics System (MTCS), as set forth by 24 CFR Part 908 and Notices PIH 98–30, 99–2 and 2000–13 for the period ending December 1999. In the event a PHA achieved less than an 85 percent rate of reporting under MTCS for this period, the PHA will still be considered to have passed the threshold if the PHA: (1) Subsequently achieved a minimum reporting rate of not less than 85 percent for its housing choice voucher and certificate resident records as of the December 2000 reporting period; or (2) has requested forbearance from HUD under the applicable procedures in Notice PIH 2000–13 for the semi-annual assessment period ending December 2000, contingent upon HUD approval of the forbearance request.

VII. Findings and Certifications

(A) Paperwork Reduction Act Statement

The Section 8 information collection requirements contained in this NOFA have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0169. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

(B) Environmental Impact

This NOFA does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing (other than tenant-based rental assistance), rehabilitation, alteration, demolition, or new construction, or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. Section 4321). In accordance with 24 CFR 50.19(b)(12) of the HUD regulations, supportive services such as counseling services under this program are categorically excluded from environmental review under NEPA and are not subject to environmental review under the related laws and authorities.

(C) Catalog of Federal Domestic Assistance Numbers

The Federal Domestic Assistance number for this program is 14.857.

(D) Federalism Impact

Executive Order 13132 (captioned ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. None of the provisions in this NOFA will have federalism implications and they will not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order. As a result, the notice is not subject to review under the Order.

(E) Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the regulations in 24 CFR part 4, subpart A contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. HUD will comply with the documentation, public access, and disclosure requirements of section 102 with regard to the assistance awarded under this NOFA, as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the

Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

(2) *Disclosures.* HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(F) Section 103 HUD Reform Act

HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics at (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel.

(G) Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF-LLL disclosing such payments must be submitted.

The Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995), which repealed section 112 of the HUD Reform Act, requires all persons and entities who lobby covered executive or legislative branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

Dated: June 26, 2001.

Paula O. Blunt,

Acting General Deputy Assistant Secretary for Public and Indian Housing.

Attachment 1.—Methodology for Determining Lease-Up and Budget Authority Utilization Percentage Rates

Using data from the HUDCAPS system, HUD determined which PHAs met the 95% budget authority utilization or 95% lease-up criteria. The data used in the determination was based on PHA fiscal years ending in 1999. The budget authority utilization and lease-up rates were determined based upon the methodology indicated below.

Budget Authority Utilization

Percentage of budget authority utilization was determined by comparing the total contributions required to the annual budget authority (ABA) available for the PHA 1999 year combining the certificate and voucher programs.

Total contributions required were determined based on the combined actual costs approved by HUD on the form HUD–52681, Year End Settlement Statement. The components which make up the total contributions required are the total of housing assistance payments, ongoing administrative fees earned, hard to house fees earned, and IPA audit costs. From this total any interest earned on administrative fees is subtracted. The net amount is the total contributions required.

ABA is the prorated portion applicable to the PHA 1999 year for each funding increment which had an active contract term during all or a portion of the PHA year.

Example

PHA ABC

Fiscal year 10/1/98 through 9/30/99

HUD 52681 Approved Data:	
HAP	$2,500,000
Administrative Fee	250,000
Hard to House Fee	1,000
Audit	2,000
Total	$2,753,000
Interest earned on administrative fee	(2,500)
Total contributions required	$2,750,500

CALCULATION OF ANNUAL BUDGET AUTHORITY

Increments	Contract Term	Total BA	ABA
001	11/01/98–10/31/99	$1,300,000	$1,191,667
002	01/01/99–12/31/99	1,200,000	900,000

CALCULATION OF ANNUAL BUDGET AUTHORITY—Continued

Increments	Contract Term	Total BA	ABA
003	04/01/99–03/31/00	950,000	475,000
004	07/01/99–06/30/00	1,500,000	375,000
Totals		4,950,000	2,941,667

BUDGET AUTHORITY UTILIZATION

Total contributions required divided by	$2,750,000
Annual budget authority equals	2,941,667
Budget Authority Utilization	93.5%

Lease-up Rate

The lease-up rate was determined by comparing the contract units (funding increments active as of the end of the PHA 1999 year) to the unit months leased (divided by 12) reported on the combined HUD 52681, Year End Settlement Statement(s) for 1999.

Active funding increments awarded by HUD, as recorded in HUDCAPS, for special purposes such as litigation, relocation/replacement, Welfare to Work, and new units awarded to the PHA during the last twelve months were excluded from the contract units as the Department recognizes that many of these unit allocations have special requirements which require extended periods of time to achieve lease-up.

Example

Increments	Contract term	Units
001	11/01/98–10/31/99	242
002	01/01/99–12/31/99	224
003	04/01/99–03/31/00	178
004	07/01/99–06/30/00	280
Totals		924
Increment 003 litigation		(178)
Adjusted contract units		746
Unit months leased reported by PHA		8,726
divided by 12		727
Units Leased		727
Lease-up Rate		
Units leased		727
divided by adjusted contract units equals		746
Lease-up Rate		97.4%

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Federal Register

Wednesday,
July 11, 2001

Part IV

Department of Housing and Urban Development

Notice of Regulatory Waiver: Requests Granted for the First Quarter of Calender Year 2001

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4682–N–01]

Notice of Regulatory Waiver Requests Granted for the First Quarter of Calendar Year 2001

AGENCY: Office of the Secretary, HUD.

ACTION: Public Notice of the Granting of Regulatory Waivers from January 1, 2001 through March 31, 2001.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the ''HUD Reform Act''), requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice must cover the quarterly period since the most recent **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the quarter beginning on January 1, 2001 and ending on March 31, 2001.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Assistant General Counsel for Regulations, Room 10282, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3055 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: As part of the Housing and Urban Development Reform Act of 1989 (the ''HUD Reform Act''), the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by HUD. Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (2 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request;

e. State how additional information about a particular waiver grant action may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives issued by HUD on April 22, 1991 (56 FR 16337). This notice covers HUD's waiver-grant activity from January 1, 2001 through March 31, 2001. Additionally, this notice contains two reports of regulatory waivers granted during the final quarter of calendar year 2000, which were inadvertently omitted in the final report for calendar year 2000. These two reports can be found in Section I of this notice.

For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Housing, the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the section of title 24 being waived. For example, a waiver-grant action involving the waiver of a provision in 24 CFR part 58 would come before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in title 24 that is being waived as part of the waiver-grant action. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver grant action.

Should HUD receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occurred between April 1, 2001 through June 30, 2001.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: June 28, 2001.

Alphonso Jackson,

Deputy Secretary.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development January 1, 2001 Through March 31, 2001

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.

II. Regulatory waivers granted by the Office of Housing.

III. Regulatory waivers granted by the Office of Multifamily Housing Assistance Restructuring.

IV. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following waiver actions, please see the name of the contact person which immediately follows the description of the waiver granted.

• Regulation: 24 CFR 91.520(a).

Project/Activity: The Village of Oak Park, Illinois, requested a waiver of the submission deadline for the Village's 2000 program year CAPER.

Nature of Requirement: Section 91.502(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Donna M. Abbenante, Acting General Deputy Assistant Secretary for Community Planning and Development.

Date Granted: March 20, 2001.

Reasons Waived: The Village was unable to submit a complete and accurate expenditure report by the deadline due to the illness of the employee responsible for preparing the CAPER. The delay in getting the report prepared also delayed the citizen participation process. While HUD is desirous of timely report, the Department is also interested in ensuring that the report is complete and accurate and meets the statutory requirements for citizen participation. The documentation provided by the Village is sufficient for granting the waiver.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7152, Washington, DC 20410; telephone (202) 708–2565.

• Regulation: Section 91.520(a).

Project/Activity: The State of Oregon requested a waiver of the submission deadline for the State's 2000 program year CAPER, Salem, Oregon.

Nature of Requirement: 24 CFR 91.502(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Donna M. Abbenante, Acting General Deputy Assistant Secretary for Community Planning and Development.

Date Granted: March 30, 2001.

Reasons Waived: Oregon's Economic and Community Development Department (OECDD) requested the 30-day extension due to reconciling delays in the State's fiscal program records which impacted their ability to comply with beneficiary reporting requirements. In addition, reconciling delays in IDIS data and OECDD's tracking system, has proven to be particularly burdensome on the staff. Based on this information and the fact that the State submitted the request in a timely manner, the Department found good cause for granting the waiver.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7152, Washington, DC 20410; telephone (202) 708–2565.

• Regulation: 24 CFR 92.205(e).

Project/Activity: The City of Milwaukee, Wisconsin, requested a waiver of the HOME provisions regarding termination of a project prior to completion and the repayment requirement.

Nature of Requirement: Section 92.205(e) requires that a HOME assisted project that is terminated before completion, either voluntarily or otherwise, constitutes an ineligible activity and any HOME funds invested in the project must be repaid to the participating jurisdiction's HOME Investment Trust Funds.

Granted By: Donna M. Abbenante, Acting General Deputy Assistant Secretary for Community Planning and Development.

Date Granted: March 26, 2001.

Reasons Waived: The Department found good cause for granting the waiver due to the extenuating circumstances. The owner of the property requested that all work on the home be stopped after a gunfight outside the home resulted in a relative being killed by a stray bullet. The owner moved out of the house and put the house on the market. From the total approved amount of $23,505.00, the owner had spent $3,305.98.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7152, Washington, DC 20410; telephone (202) 708–2565.

• Regulation: 24 CFR 92.219(b)(2)(ii).

Project/Activity: The Alabama Housing Finance Authority, Montgomery, Alabama (AHFA), requested a waiver to count sweat equity contributions made to habitat for Humanity units in AHFA's loan portfolio as program match.

Nature of Requirement: Section 220(b)(1)(A) of the Cranston-Gonzalez National Affordable Housing Act of 1990 requires that for contributions to housing not assisted with HOME funds to be counted as match, they must be made to housing that qualifies as affordable pursuant to Section 215(b). This section defines affordable housing as housing that: has a purchase price that does not exceed 95 percent of the median purchase price for the area; is the principal residence of any family that qualifies as a low-income family; and is subject to resale restrictions that are established by the participating jurisdiction (PJ). These statutory requirements are established at 24 CFR 92.219(b)(2)(ii) of the HOME regulations. The HOME regulations also require that, in order for a contribution made to housing not assisted with HOME to count as match, the PJ must execute a written agreement with the project owner that imposes these statutory requirements and the regulatory property standard requirements of 24 CFR 92.251.

Granted By: Donna M. Abbenante, Acting General Deputy Assistant Secretary for Community Planning and Development.

Date Granted: April 4, 2001.

Reasons Waived: The Department reviewed the loan portfolio and determined units eligible. While AHFA did not execute the required agreement and include the resale/recapture provisions in its Consolidated Plan, the Department waived these requirements since failure to do so would create a financial hardship for the State of Alabama. This waiver allows the State to count as match otherwise eligible BMIR loans and real property contributions toward 111 units and sweat equity contributed toward 75 units.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7152, Washington, DC 20410; telephone (202) 708–2565.

• Regulation: 24 CFR 582.105(e).

Project/Activity: The City of Berkeley, California, requested a waiver of the eight percent administrative cost limitation relative to its 1993 Shelter Plus Care (SPC) grant.

Nature of Requirement: Section 582.105(e) provides for an eight percent cap on administrative fees.

Granted By: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: January 12, 2001.

Reasons Waived: The Department determined that because the City intends to serve the same number of households that was originally anticipated for an additional period of time with no increase in funds, an increase in the administrative costs allowed for the program is appropriate. The City may use up to 11.2% of the grant for administrative costs.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7152, Washington, DC 20410; telephone (202) 708–2565.

II. Regulatory Waivers Granted by the Office of Housing

For further information about the following waiver actions, please see the name of the contact person which immediately follows the description of the waiver granted.

• Regulation: 24 CFR 203.357(c).

Project/Activity: Waiver of regulations to permit non-profit mortgagors that own multiple insured properties to execute deeds in lieu of foreclosure.

Nature of Requirement: Section 203.357(c) permits mortgagors that are individuals who own more than one insured property to execute deeds in lieu of foreclosure with HUD's prior written consent.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Dated Granted: January 19, 2001.

Reason Waived: In aggregate, these non-profit mortgagors own approximately 719 properties located in and around New York City. Fraudulent activities of some sellers, originating mortgagees, appraisers, title companies, and others, resulted in underfunding the rehabilitation, incomplete rehabilitation, insufficient rental income and mortgage default. Many of the non-profit mortgagors were misled by assurances that consultants would oversee the rehabilitation of the properties and that the rehabilitated properties would generate sufficient cash flow. Many of the non-profit mortgagors lacked the financial capacity and experience to rehabilitate the properties.

The regulation provides that to be eligible for a deed in lieu of foreclosure the mortgagor who owns multiple insured properties must be an individual. Non-profit mortgagors are entities, not individuals. Deeds in lieu of foreclosure reduce the losses incurred by the insurance funds because HUD does not have to include the expense of foreclosure proceedings in the payments for insurance claims.

Contact: Joe McCloskey, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–1672.

• Regulation: 24 CFR 203.673(a) and (b), 203.674(b)(1), (2), (3), and (4), 203.675, 203.676, 203.677, and 203.678.

Project/Activity: Waiver of regulations to permit occupied conveyances for approximately 719 properties located in eight counties in and around New York City.

Nature of Requirement: Section 203.673(a) and (b) defines, for the purpose of an occupied conveyance, the habitability criteria that a property must satisfy in its present condition or with repair expenditures of not more than five percent of the fair market value of the property. The regulation requires that the property be free of lead-based paint hazards and each residential unit must contain adequate heating facilities, adequate electrical supplies, adequate cooking facilities and sanitary facilities, and a continuing supply of hot and cold water. Section 203.674(b)(1), (2), (3), and (4)

establishes the standards by which HUD evaluates requests for occupied conveyance. Section 203.675 requires mortgagees to give occupants a notice of pending acquisition between 60 and 90 days before acquisition. Section 203.676 gives occupants 20 days after their receipt of the mortgagee's notice of pending acquisition during which they must submit to HUD their request for occupied conveyance. Section 203.677 establishes the procedures that HUD uses to decide whether to approve or deny an occupant's request for occupied conveyance. Section 203.678 requires that property be conveyed vacant under certain circumstances, including when an occupant fails to request occupied conveyance or to appeal HUD's denial of the request within the specified time period.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Dated Granted: January 19, 2001.

Reason Waived: Due to defaults on FHA-insured mortgages, HUD anticipates acquiring up to 719 multi-unit properties in the New York City area that were purchased by non-profit organizations to provide low-income housing. Fraudulent activities of some sellers, originating mortgagees, appraisers, title companies, and others, resulted in underfunding the rehabilitation, incomplete rehabilitation, insufficient rental income and mortgage default. The originating mortgagees sold these mortgages to other mortgagees. HUD generally requires mortgagees to evict occupants prior to conveying title to HUD in exchange for mortgage insurance benefits. The regulations permit occupied conveyance when the occupants and the property involved satisfy certain standards.

Waiver of the cited regulations is necessary to allow for a shortened process for requesting and approving occupied conveyances. Waiver of the habitability standards is necessary as some units have deficiencies because the properties are in varying stages of rehabilitation, or, the property does not qualify as a one-to-four family dwelling as it is a shared facility, single room occupancy building. Local eviction laws in and around New York City may delay conveyances thereby increasing the costs included in insurance claims. In addition, the affordable housing supply is limited in these communities. The eviction of the thousands of occupants of these 719 properties over a short time period would severely overtax the limited resources in the effected communities and likely increase homelessness.

Contact: Joe McCloskey, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–1672.

• Regulation: 24 CFR 291.100(a)(2).

Project/Activity: Sale of REO home in Chicago, Illinois, to former mortgagors in occupancy who defaulted on their mortgage.

Nature of Requirement: Section 291.100(a)(2) provides that neither HUD nor any transferor pursuant to § 291.90(a) or § 291.200 will offer former mortgagors in occupancy who have defaulted on the mortgage the right of first refusal to repurchase the same property.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 2, 2000.

Reason Waived: Approval of the waiver allowed the mortgagors to repurchase their former home from HUD for its fair market value so that they could remain located near the hospital where their seriously ill child receives regular treatment. Counseling agencies, HUD staff, and others familiar with the case believe that forcing the mortgagors' family to move by failing to grant this waiver would be detrimental to the health of the child.

The property suffered from significant structural defects and was grossly overvalued when it was first acquired by the mortgagor. Recurrent repair costs contributed to the default. The mortgagors' were counseled by a HUD-approved housing counseling agency (HCA) through the foreclosure and acquisition process. The HCA assisted them by obtaining financial commitments from local non-profits and government agencies to provide funds for repairs and affordable mortgage financing terms. The purchase price was not financed with an FHA insured mortgage.

Contact: Joe McCloskey, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–1672.

• Regulation: 24 CFR 291.210(a).

Project/Activity: Waiver of the requirement of 24 CFR 291.210(a) to provide authority for the Teacher Next Door Initiative which allows governmental entities and private nonprofit organizations to purchase HUD-owned single family properties offered with mortgage insurance on a direct sales basis and to provide discounts of 50 percent off the list price for resale to teachers.

Nature of Requirement: Section 291.210(a) permits direct sales at a discount off the list prices of properties sold without mortgage insurance to governmental entities and private nonprofit organizations for use in HUD and local housing or homeless programs.

Granted by: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date granted: October 4, 2000.

Reasons waived: Based on HUD's experience with Real Estate Owned (REO) sales, it would not be detrimental to the insurance fund to permit governmental entities and private nonprofit organizations to purchase REO properties offered with mortgage insurance on a direct sales basis or to provide discounts of 50 percent on properties sold for use in the Teacher Next Door Initiative.

Contact: Joe McCloskey, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–1672.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Three Gems, Lowell, Massachusetts, Project Number: 023–HD161/MA06–Q991–009.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 2, 2001.

Reason Waived: The Project secured secondary financing from The Commonwealth of Massachusetts; the sponsor contributed the required minimum capital investment; labor and material costs in the area were high; and the project was economically designed and comparable to other similar projects developed in the area.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Riley House, Hyde Park, Massachusetts, Project Number: 023–EE111/MA06–S991–005.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 4, 2001.

Reason Waived: The sponsor/owner received secondary financing from the Federal Home Loan Bank, state home funds and city home funds; the cost of real estate development in the Boston area was greater than in other parts of the country; and the project was economically designed and comparable to other similar projects developed in the area.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000, telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Cooperative Services, Jamaica Plain, Massachusetts, Project Number: 023–EE114/MA06–S991–008.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 5, 2001.

Reason Waived: The sponsor/owner received $1,250,000 in secondary financing from The Federal Home Loan Bank, Cedac and City Home Funds; the cost of real estate development in the Boston area was greater than in other parts of the country; and the project was economically designed and comparable to other similar projects developed in the area.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and

Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Gibb Thomasville Village II, Thomasville, Georgia, Project Number: 061–HD068/GA06–Q991–001.
Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.
Date Granted: January 19, 2001.
Reason Waived: The sponsor/owner made concerted efforts to reduce the expenses for the project and to obtain funding from other sources, and the project was comparable in cost to Gibb Thomasville Village I.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Transitional Learning Center, Galveston, Texas, Project Number: 114–HD013/TX24–Q971–001.
Nature of Requirement: Prohibition against amendment funds prior to initial closing.
Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.
Date Granted: January 19, 2001.
Reason Waived: The Project was economically designed and additional funds were needed to meet the new windstorm code requirements imposed by the Texas Department of Insurance.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Ziegler Homes II, Toledo, Ohio, Project Number: 042–HD058/OH12–Q961–005.
Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: The Project was modestly designed and comparable to similar projects in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Ottawa River Estates, Toledo, Ohio, Project Number: 042–HD072/OH12–Q971–004.
Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: The Project was modestly designed and comparable to similar projects in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; Telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Madison Terrace, Madison Township, Ohio, Project Number: 042–HD085/OH12–Q991–006.
Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: The Project was modestly designed and comparable to similar projects in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Ridgeview Terrace I, Ashtabula, Ohio, Project Number: 042–EE106/OH12–S981–009.
Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: The Project was modestly designed and comparable to similar projects in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Friendship Plaza, Lincoln Heights, Ohio, Project Number: 046–EE047/OH10–S981–003.
Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: The Project was modestly designed and comparable to similar projects in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Lytle Trace, Williamsburg, Oh, Project Number: 046–EE050/OH10–S991–003.
Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: The Project was modestly designed and comparable to similar projects in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: NCR of Aaron Drive, Middleton, Ohio, Project Number: 046–EE051/OH10–S991–004.
Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: The Project was modestly designed and comparable to similar projects in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Central Park II, Philadelphia, Pennsylvania, Project Number: 034–EE095/PA26–S991–004.
Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: The Project was modest in design, comparable to other projects developed in the area and the sponsor had secured additional funds from outside sources but was unable to secure secondary financing from the Pennsylvania Housing Finance Agency.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).
Project/Activity: Guilford Homes, Baltimore City, Maryland, Project Number: 052–HD040/MD06–Q991–005.
Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: The Project was economically designed, comparable to other similar projects developed in the jurisdiction, there was an increase in the construction budget due to some necessary repairs needed at the project, and the sponsor had exhausted all efforts to obtain additional funding from other sources.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW,

Washington, DC 20410–7000, telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Cote Brilliante Senior Apartments, St. Louis, Missouri, Project Number: 085–EE046/MO36–S991–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: Construction cost in the area had escalated.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Unionville Senior Housing, Unionville, Connecticut, Project Number: 017–EE045/CT26–S981–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: The project was economically designed and comparable to other similar projects in the area.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Tolland Senior Housing, Tolland, Connecticut, Project Number: 017–EE043/CT26–S981–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: The Project was economically designed and comparable to other similar projects constructed in the area.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Peach Tree Acres, Harbeson, Delaware, Project Number: 032–HD021/DE26–Q981–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: The Sponsor had secured additional funds and the project was modest in design and consistent with other projects developed in the area.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: Woodbury Senior Housing, Woodbury, Connecticut, Project Number: 017–EE044/CT26–S981–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Sean Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: March 21, 2001.

Reason Waived: The Project was economically designed, comparable to other similar projects developed in the jurisdiction and all efforts to lower the cost of the project had been exhausted.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d).

Project/Activity: CLRC, IV, Loves Park, Illinois, Project Number: 071–EE144/IL06–S991–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Sean Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: March 22, 2001.

Reason Waived: The Project was modestly designed, the cost to develop the project was comparable to similar projects in the area, and the sponsor had exhausted all efforts to secure additional funding.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: ASI-Missoula, Missoula, Montana, Project Number: 093–HD013/MT99–Q961–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 19, 2001.

Reason Waived: The Field Office had not received the amendment money necessary for the project to go to initial closing. The previous waiver granted August 21, 2000, to permit the project to receive up to $145,138 in amendment funds was still in effect.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Viceroy Apartments, San Antonio, Texas, Project Number: 115–HD027/TX59–Q981–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 19, 2001.

Reason Waived: The sponsor needed additional time for fund raising efforts. Also, the project was economically designed, comparable to other similar projects developed in the jurisdiction, and the owner exhausted all efforts in seeking funding from other resources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Biscay Road Residence, Damariscotta, Maine, Project Number: 024–HD027/ME26–Q981–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 19, 2001.

Reason Waived: The firm commitment application had been processed except for receiving the appraisal. Also, the project was economically designed, comparable to other similar projects developed in the jurisdiction, and the owner exhausted all efforts in seeking funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: St. Anthony Homes, Baltimore, Maryland, Project Number: 052–HD029/MD06–Q971–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's

regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: The contractor increased his prices during the time the project experienced delays with initial endorsement. Also, the sponsor had to hire an appraiser to prepare an appraisal of the land designated for the project in order to obtain a partial release from the State of Maryland Department of Housing and Community Development.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.130(B)(1) and (B)(2), and 24 CFR 891.120(B).

Project/Activity: TWB Residential Opportunities, Selden, New York and Holbrook, New York, Project Number: 012–HD087/NY36–Q981–008.

Nature of Requirement: HUD's regulation prohibits identity of interest between the Sponsor or Owner or Borrower and any development team member or between development team members until two years after final closing.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: The project consisted of acquisition with rehabilitation of three group homes for persons with chronic mental illness. One of the sites was designed to be accessible for persons with mobility impairments. To make all units fully accessible for persons with mobility impairments would make the project financially unfeasible. The sponsor indicated that less than 4 percent of the individuals that were served under their programs require accessible housing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Mayfair Apartments, Rocky Mount, North Carolina, Project Number: 053–EE080/NC19–S981–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary For Housing—Federal Housing Commissioner.

Date Granted: January 2, 2001.

Reason Waived: The initial site proposed for the project was denied a special use permit because of citizen opposition.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Main Street Apartments, Point Pleasant, West Virginia, Project Number: 045–HD029/WV15–Q981–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary For Housing—Federal Housing Commissioner.

Date Granted: January 2, 2001.

Reason Waived: Problems occurred with the independent cost analyst which had to be resolved.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Thomaston VOA Thomaston, Maine, Project Number: 024–EE038/ME36–S971–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary For Housing—Federal Housing Commissioner.

Date Granted January 2, 2001.

Reason Waived: The Project was delayed due to citizen opposition.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Belair Manor, Baltimore, Maryland, Project Number: 052–HD032/MD06–Q981–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary For Housing—Federal Housing Commissioner.

Date Granted: January 5, 2001.

Reason Waived: The Project involved subordinate financing from the state of Maryland and the terms and conditions of the financing documents were being reviewed by HUD.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000, telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Homes With Hope, Westport, Connecticut, Project Number: 017–HD015/CT26–Q961–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary For Housing—Federal Housing Commissioner.

Date Granted: January 5, 2001.

Reason Waived: The Sponsor/Owner had difficulty obtaining a suitable site for rehabilitation, there were delays in assembling the documentation for the firm commitment application, and difficulty in securing a contractor for the job due to a tight housing market and very active period of new construction projects in the local area.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: South Vance Drive Apartments, Beckley, West Virginia, Project Number: 045–HD028/WV15–Q981–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 16, 2001.

Reason Waived: The Field Office needed additional time to accommodate the initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000, telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: International Hotel Senior Housing, San Francisco, California, Project Number: 121–EE059/CA39–S941–011.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 18, 2001.

Reason Waived: The privately-owned parking garage over which the project would be built experienced delays while waiting for approval by the San Francisco Fire Marshall.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW,

Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Cedarwood Apartments, Inc., Hayward, Wisconsin, Project Number: 075–EE073/WI39–S981–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 19, 2001.

Reason Waived: Additional time was needed for the owner to prepare and HUD to process the firm commitment application in order for the project to reach initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: A.C. Ware Manor, Buffalo, New York, Project Number: 014–EE181/NY06–S981–015.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 19, 2001.

Reason Waived: There was a delay in obtaining clear title from the City of Buffalo.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Hancock Estates, Tiverton, Rhode Island, Project Number: 016–EE029/RI43–S981–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 19, 2001.

Reason Waived: The owner lost the original site and the zoning approval of the second site took an inordinate length of time.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Royale Gardens, Chicago, Illinois, Project Number: 071–EE125/IL06–S961–016 Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 19, 2001.

Reason Waived: The Sponsor/Owner was awaiting approval of sewer permits from the City of Chicago.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Mercy Gardens, San Diego, California, Project Number: 129–HD011/CA33–Q961–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 19, 2001.

Reason Waived: There were numerous delays in achieving a construction start that were beyond the control of the owner.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Fort Washington Adventist Apartments, Fort Washington, Maryland, Project Number: 000–EE045/MD39–S971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 19, 2001.

Reason Waived: More time was needed to obtain building permits in Prince George's County.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000, telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Adda and Paul Safran Senior Housing, Venice, California, Project Number: 122–EE127/CA16–S971–012.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 19, 2001.

Reason Waived: The Project experienced delays in obtaining zoning approval from the City of Los Angeles; the original contractor's bid was approximately two million dollars over budget and the sponsor had to re-bid the job competitively with other contractors; and additional funds had to be requested by the sponsor from the Los Angeles Housing Department.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Sumac Trail Apartments, Rhinelander, Wisconsin, Project Number: 075–HD050/WI39–Q971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 19, 2001.

Reason Waived: There were delays with the submission of the closing documents.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Belfast VOA, Inc., Belfast, Maine, Project Number: 024–EE042/ME36–S981–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 19, 2001.

Reason Waived: The Project experienced delays due to local opposition.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Mt. Oliver Senior Apartments, Mt. Oliver Borough,

Pennsylvania, Project Number: 033–EE092/PA28–S981–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: William C. Apgar, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: January 23, 2001.

Reason Waived: The owner experienced unanticipated delays in obtaining the necessary local approval to connect the project to the local sanitary sewage system.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Parc, Peoria, Illinois, Project Number: 072–HD106/IL06–Q981–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 14, 2001.

Reason Waived: Additional time was needed to review the initial closing documents.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Olive Manor, Sylmar, California, Project Number: 122–EE138/CA16–S981–007.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: The Project experienced delays due to the lengthy process for the site to be properly zoned.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Shawmee Heights II, Sandwich, Massachusetts, Project Number: 023–EE102/MA06–S981–007.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: Zoning, historic and environmental issues had to be resolved; the sponsor had to seek secondary financing; and a partial mortgage release and evidence of a right of way for the complex had to be obtained from the Department of Agriculture—Rural Development.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Moorestown Consumer Home, Lumberton Township, New Jersey, Project Number: 035–HD038/NJ39–Q971–007.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: The Project was delayed when the local municipality required that lead be abated.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Eden Park/Cccso House, Huntington, West Virginia, Project Number: 045–EE0II/WV15–S981–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: The Project was delayed while legal concerns with the site control documents were resolved.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Beacon Housing, Pasadena, California, Project Number: 122–EE137/CA16–S981–006.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: A zoning change amendment had to be obtained from the City of Los Angeles, the original architect had to be replaced, and site options secured at the time of fund reservation development expired and extensions had to be secured.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Ferriday Place, Ferriday, Louisiana, Project Number: 064–EE098/LA48–S981–012.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: It took the sponsor an inordinate amount of time to gather the closing documents and the Field office needed additional time to review the documents.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Joy Retreat Senior Housing, Inc., Petersburg, West Virginia, Project Number: 045–EE012/WV15–S981–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: The Field office was seeking secondary financing to meet a construction shortfall.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000, telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Franklin Consumer Home, Franklin, New Jersey, Project Number: 031–HD095/NJ39–Q981–010.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: The Field Office needed additional time to process and issue the firm commitment and to review the initial closing documents.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Absecon Consumer Home, Absecon, New Jersey, Project Number: 031–HD084/NJ39–Q971–009.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: The owner experienced delays in the submission of the firm commitment application.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Access House I, Parsippany-Troy Hills, New Jersey, Project Number: 031–HD078/Q971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: The Project was delayed due to The Township Building Department's backlog with processing applications for building permits.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Sunshine Village, Slidell, Louisiana, Project Number: 064–HD043/LA48–Q981–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: The current city ordinances' requirements resulted in the need to seek additional funding which caused a delay in processing the fund reservation.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Hudson Street Corporation, Syracuse, New York, Project Number: 014–HD080/NY06–Q981–013.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: Weather conditions hindered the owner from achieving a construction start.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: The Diocese of Buffalo, Buffalo, New York, Project Number: 014–HD066/NY06–Q971–013.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: Additional time was needed for the project to reach initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Alexander Apartment of Plant City, Inc., Plant City, Florida, Project Number: 067–HD065/FL29–Q981–012.

Nature of Requirement: HUDs regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: The Project experienced delays due to the city requiring modifications to the plans and specifications.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Inglis Gardens At Evesham, Eatontown, New Jersey, Project Number: 031–HD040/NJ39–Q981–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: The lead sponsor withdrew in August 2000, and the existing sponsor had to wait for the Inglis Board of Director's Authority to continue with the project.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Atlantic County Independent Living Complex, Neptune City, New Jersey, Project Number: 031–HD042/NJ39–Q981–006.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: The Project was delayed due to the discovery of additional items requiring correction and repair which resulted in re-inspection, revision of drawings, re-bidding of the project and revision of the project budget to accommodate the changes.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Monmouth County Independent Living Complex, Scattered Sites-Monmouth County, New Jersey, Project Number: 031–HD091/NJ39–Q981–005.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: February 15, 2001.

Reason Waived: The Project was delayed due to the discovery of additional items requiring correction and repair which resulted in re-inspection, revision of drawings, re-bidding of the project and revision of the project budget to accommodate the changes.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: B'nai B'rith at Chesilhurst House, Boro of Chesilhurst, New Jersey, Project Number: 035–EE029/NJ39–S971–006.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: The owner needed additional time to complete the arrangements for secondary financing and correct certain deficiencies found in the initial closing documents.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.
Project/Activity: King Hill Apartments, St. Joseph, Missouri, Project Number: 084–EE031/MO16–S981–001.
Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: All parties involved with the project were unable to meet until January 2001, to fully complete initial closing documents.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.
Project/Activity: Central Park Senior Residence, Wichita, Kansas, Project Number: 102–EE022/KS16–S981–001.
Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: Existing restrictive covenants on the original site prohibited housing for the elderly under the Section 202 program and the owner had to locate another site.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.
Project/Activity: O'Brien Apartments, Springfield, Missouri, Project Number: 084—HD025/MO16–Q981–002.
Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: Delays were encountered in obtaining city variances and additional funding for the project.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.
Project/Activity: Carbondale Supportive Housing, Inc., Carbondale, Illinois, Project Number: 072–HD101/IL06–Q971–001.
Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: There was a change in site, the contractor withdrew from the project and a new contractor was hired which caused the cost of the project to go up.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.
Project/Activity: TWB Residential Opportunities, Suffolk County, New York, Project Number: 012–HD087/NY36–Q981–008.
Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: Considerable time was lost in finalizing site control and for the owner's development team to resolve discrepancies in the cost estimate.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.
Project/Activity: Fall River Residence, Fall River, Massachusetts, Project Number: 023–HD127/MA06–Q971–008.
Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: The Field Office needed additional time to process the firm commitment application and to prepare for initial closing.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.
Project/Activity: Volunteers of America, Belfast, Maine, Project Number: 024–EE042/ME36–S981–001.
Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: The owner had to locate another site due to opposition from the local housing authority and town manager.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.
Project/Activity: Stanton Accessible Apartments, Stanton, California, Project Number: 143–HD008/CA43–Q981–002.
Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: The Project was delayed due to a request for a zoning variance to reduce the city's parking requirements.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.
Project/Activity: Palms Manor, Los Angeles, California, Project Number: 122–HD113/CA16–Q981–005.
Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.
Granted By: Mel Martinez, Secretary.
Date Granted: March 9, 2001.
Reason Waived: It took several months before the owner received their tax exemption number and due to the architectural drawings having to be revised.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.
Project/Activity: Lime House, Los Angeles, California, Project Number: 122–EE136/CA16–S981–005.
Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24

months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: The Project had been delayed due to the lengthy processing of a zoning change by the city.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Helms Manor, Los Angeles, California, Project Number: 122–HD115/CA16–Q981–007.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: It took several months before the owner received their tax exemption number and due to the architectural drawings having to be revised.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: McFarland Apartments, Las Vegas, Nevada, Project Number: 125–EE110/NV39–S981–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: The sponsors of the proposed project had to identify and gain control of two replacement sites before they were able to proceed with the development.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Gibson Court, Ukiah, Mendocino County, California, Project Number: 121–HD068/CA39–Q981–005.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: Delays were caused by the division of the site to accommodate an additional project funded by the State of California home funds and deficiencies needed to be corrected in the sponsor's firm commitment application.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Ray Rawson Villa, Las Vegas, Nevada, Project Number: 125–HD064/NV25–Q971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: Delays were caused by the difficulty in retaining qualified contractors due to the construction boom in the city.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Westminster Senior Housing, Los Angeles, California, Project Number: 122–EE143/CA16–Q981–012.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: The Project had been delayed due to the lengthy process to have the project site released from The Los Angeles Unified School District's Official list of sites to build several continuation schools in Los Angeles and several design changes requested by The City of Los Angeles Housing Department.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Allen House, Los Angeles, California, Project Number: 122–HD110/CA16–Q981–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: The subject project experienced delays in achieving a construction start due to the lengthy process that was incurred in receiving IRS tax exemption, errors in the title report, and the process to obtain additional funding from the city of industry.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Casa De Paz Apartments, Los Angeles, California, Project Number: 122–HHD116/CA16–Q981–009.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: A new contractor had to be hired because the initial contractor withdrew, the plans had to be revised because the project was over budget, and lengthy county and city council procedures had to be followed in order to acquire additional funding.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Vista Alegre, Glendale, Arizona, Project Number: 123–EE065/AZ20–S981–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: The Project had been delayed because it took the sponsor/owner over a year to obtain the abandonment of a dry well which was located on the site.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

• Regulation: 24 CFR 891.165.

Project/Activity: Corbin House, Northridge, California, Project Number: 122–HD114/CA16–Q981–006.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Mel Martinez, Secretary.

Date Granted: March 9, 2001.

Reason Waived: Delays were caused by administrative changes in the project sponsor, the hiring of a new and more responsive architect, and the city required additional drawings from a structural engineer.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone: (202) 708–3000.

III. Regulatory Waivers Granted by the Office of Multifamily Housing Assistance Restructuring (OMHAR)

For further information about the following waiver actions, please see the name of the contact person which immediately follows the description of the waiver granted.

• Regulation: 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No. and project name	State
11435250 Bay Breeze Apartments ..	TX
06335180 Briarwood Apartments Phase II	FL
06335009 Cleveland Arms Apartments	FL
06135254 Columbus Villas	GA
06335151 Jacksonville Townhouse	FL
09135027 Lakota Community Homes, Inc	SD
12735282 Meridian Manor Apartments	WA
07535269 Metro Homes	WI
08335248 Royal Arms Apartments ..	KY
06535236 Ruleville Apartments	MS
04335191 Staunton Commons II	OH
04335168 Windsor Place	OH

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Ira Peppercorn, Director of OMHAR.

Date Granted: February 16, 2001.

Reasons Waived: The attached list of projects were not assigned to the PAEs in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

Regulation: 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No. and project name	State
08335242 Greater Corbin Manor	KY
08444138 Sunflower Park Apartments	KS

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Ira Peppercorn, Director of OMHAR.

Date Granted: March 6, 2001.

Reasons Waived: The attached list of projects were not assigned to the participating agent entities in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• Regulation: 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No. and project name	State
09335085 Broadview Manor	MT
01257038 Crotona VII	NY
02335131 Hotel Raymond Apartments	MA
01257031 Hunts Points Peninsula ...	NY
07535249 La Corona Apartments	WI
01257032 New West 111th Street Phase I	NY
05435347 Orangeburg Manor Apartments	SC
02335135 Sycamore House	MA
04635470 Tamarind Square	OH
01635015 Vulcan Apts.	RI
02344184 Walnut Street Apartments	MA

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Ira Peppercorn, Director of OMHAR.

Date Granted: March 19, 2001.

Reasons Waived: The attached list of projects were not assigned to the participating agent entities in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

IV. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following waiver actions, please see the name of the contact person which immediately follows the description of the waiver granted.

• Regulation: 24 CFR 982.306(d).

Project/Activity: Lowell Housing Authority, Lowell, Massachusetts, housing choice voucher program.

Nature of Requirement: The regulation limits the circumstances under which a public housing agency PHA may approve the leasing of a unit if the owner of the unit is a close relative of the family.

Granted By: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: January 11, 2001.

Reason Waived: Approval of the waiver permitted a voucher holder to lease a unit from a relative because of the unavailability of suitable vacant rental housing in the PHA's jurisdiction.

Contact: Gerald Benoit, Director Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone (202) 708–0970.

• Regulation: 24 CFR 983.4(a)(2), 983.51, 983.55(a), (c) or (d), and 983.56.

Project/Activity: Dallas Housing Authority (DHA), Dallas, Texas, project based certificate program.

Nature of Requirement: The regulations address the competitive selection of owner proposals for the project based certificate program.

Granted By: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: January 9, 2001.

Reason Waived: Approval of the waiver allowed the DHA to comply with a court decree to develop 100 elderly only, project-based certificate units as a part of the Revitalization Plan of the Roseland Homes public housing development.

Contact: Gerald Benoit, Director Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4210, Washington, DC 20410; telephone (202) 708–0970.

• Regulation: 24 CFR 983.51(b).

Project/Activity: Massachusetts Department of Housing and Community Development (DHCD), Boston, Massachusetts, project-based voucher program.

Nature of Requirement: The regulation provides that there be a 30-day advertising period.

Granted By: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: January 19, 2001.

Reason Waived: Approval of the waiver would assure that at least 100 units developed with tax credits and other State-supported private housing funds would be available to housing choice voucher holders.

Contact: Gerald Benoit, Director Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4210, Washington, DC 20410; telephone (202) 708–0970.

• Regulation: 24 CFR 983.51 (a), (b), and (d), 983.55(a) and (d).

Project/Activity: New Haven Housing Authority (NHHA), New Haven, Connecticut, project-based voucher program. A request was made for a waiver of the competitive selection of owner proposals to allow The Community Builders, Inc. (TCB), in partnership with the City of New Haven, and NHHA to participate in a major revitalization in the Hill neighborhood of New Haven. TCB, in conjunction with the City, has agreed to acquire the 301-unit Church Street South project from HUD. TCB will demolish the project to develop replacement housing consisting of 120 units of multifamily housing and 100 duplex units.

Nature of Requirement: The regulations provide that a public housing agency provide for a competitive selection of owner proposals and that applications be in compliance with the PHA's written selection policy and procedures for new construction.

Granted By: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: January 19, 2001.

Reason Waived: Approval of the waivers will permit the development of 100 duplex units that will be sold to low and moderate income families who will occupy one unit in each duplex and the remaining unit will be leased to a family with assistance under the project-based voucher program. The approval also supports the revitalization efforts of the Hill neighborhood, that is located in the New Haven Empowerment Zone.

Contact: Gerald Benoit, Director Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4210, Washington, DC 20410; telephone (202) 708–0970.

• Regulation: 24 CFR 983.7(b)(1) and 983.101(a).

Project/Activity: San Francisco Housing Authority (SFHA), San Francisco, California, project-based assistance.

Nature of Requirement: The regulations require that the agreement to enter into housing assistance payment contract, (AHAP) must be executed before the start of any new construction.

Granted By: Gloria J. Cousar, Acting General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: March 13, 2001.

Reason Waived: Approval of the waivers will provide 31 units of additional affordable housing for low income families in the tight San Francisco rental market.

Contact: Gerald Benoit, Director Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4210, Washington, DC 20410; telephone (202) 708–0970.

• Regulation: 24 CFR 983.51(a), (b) and (c).

Project/Activity: District of Columbia Housing Authority (DCHA), Washington, D.C. project-based certificate (PBC) program.

Nature of Requirement: The regulations require a PHA to select units to be subsidized with PBC assistance in accordance with a written, HUD-approved unit selection policy and prescribe certain advertising procedures that must be followed. In addition, the regulation requires that the PHA's written selection policy identify the factors the PHA will use to rank and select applications, etc.

Granted By: Gloria J. Cousar, Acting General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: January 29, 2001.

Reason Waived: Approvals of these waivers will permit the DCHA to provide project-based subsidies for 38 one-bedroom units to be redeveloped at Edgewood Terrace III. Approval of these waivers will also help to preserve 200 units of subsidized housing for low income seniors in the District of Columbia at a time of rapidly rising housing costs and a critical shortage of affordable housing.

Contact: Gerald Benoit, Director Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4210, Washington, DC 20410; telephone (202) 708–0970.

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Federal Register

Wednesday,
July 11, 2001

Part V

Department of Housing and Urban Development

Notice of Funding Availability: Family Unification Program, Fiscal Year 2001

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Docket No. FR–4675–N–01]

Notice of Funding Availability; Family Unification Program, Fiscal Year 2001

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: Purpose of the Program: The purpose of the Family Unification Program (FUP) is to (1) promote family unification by providing housing choice vouchers to families for whom the lack of adequate housing is a primary factor in the separation, or the threat of imminent separation, of children from their families, and (2) provide housing choice vouchers to youths 18 to 21 years old who left foster care at age 16 or older and lack adequate housing. This second category of eligible participants for FUP vouchers has been added to this NOFA as a result of an amendment by Congress in FY 2001 to Section 8(x)(2) of the U.S. Housing Act of 1937.

Available Funds. The $11,466,000 in one-year budget authority available under this NOFA will support approximately 2,000 housing choice vouchers. Approximately $6.4 million of these funds have been used to fund the approvable Family Unification Program applications submitted by public housing agencies (PHAs) in response to HUD's FY 2000 Family Unification NOFA. That NOFA indicated in section II(C)(3) that ''PHAs with approvable applications that are not funded, in whole or in part due to insufficient funds available under this FUP NOFA, shall be funded first in FY 2001 provided HUD receives additional appropriations for FUP for FY 2001.'' The 12 previously unfunded FY 2000 FUP applications that have been funded are: City of Fresno, California Housing Authority—$475,814 for 100 vouchers; Broward County, Florida Housing Authority—$667,841 for 100 vouchers; Orlando, Florida Housing Authority—$519,884 for 100 vouchers; Guam Housing and Urban Renewal Authority—$934,691 for 100 vouchers; Chicago, Illinois Housing Authority—$742,170 for 100 vouchers; Springfield, Massachusetts Housing Authority—$527,255 for 100 vouchers; New York State Division of Housing and Community Renewal—$155,503 for 40 vouchers; Housing Authority of Winston-Salem, North Carolina—$388,758 for 100 vouchers; Cuyahoga, Ohio Metropolitan Housing Authority—$513,273 for 100 vouchers; Central Oregon Regional Housing Authority—$364,503 for 75 vouchers; Housing Authority of the County of King, Washington—$716,572 for 100 vouchers; and Huntington, West Virginia Housing Authority—$386,126 for 100 vouchers.

After funding these previously unfunded approvable FUP applications from FY 2000, there remains approximately $5.1 million under this NOFA to fund approximately 900 vouchers for new applications in FY 2001. The $5.1 million will be used to fund applications for FUP vouchers which can be used for either FUP-eligible families or FUP-eligible youths. (See section II(C)(1) of this NOFA).

Funding under this NOFA may only be used to provide tenant-based housing assistance, as prescribed by section 8(x) of the U.S. Housing Act of 1937, so as to allow FUP-eligible families and FUP-eligible youths a choice in their selection of decent, safe, and affordable units on the private market.

Eligible Applicants. Public Housing Agencies (PHAs). Indian Housing Authorities, Indian tribes and their tribally designated housing entities are not eligible. The Native American Housing Assistance and Self-Determination Act of 1996 does not allow HUD to enter into new housing choice voucher annual contributions contracts (ACC) with IHAs after September 30, 1997.

Application Deadline. August 10, 2001.

Match. None

SUPPLEMENTARY INFORMATION: If you are interested in applying for funding under the Family Unification Program, please read the balance of this NOFA which will provide you with detailed information regarding the submission of an application, Family Unification Program requirements, the process to be used in selecting applications for funding, and other valuable information relative to a PHA's participation in the Family Unification Program.

I. Application Due Date, Application Kits, Further Information and Technical Assistance

Application Due Date. Your completed application (an original and one copy) is due on or before August 10, 2001, at the address shown below. This application deadline is firm. In the interest of fairness to all competing PHAs, HUD will not consider any application that is received after the application deadline. Applicants should take this practice into account and submit their applications early to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent via facsimile (FAX) transmission.

Address for Submitting Applications. Submit your original application and one copy, and a form HUD–2993, Acknowledgment of Application Receipt, to: Michael E. Diggs, Director of the Grants Management Center, Department of Housing and Urban Development, 501 School Street, SW, Suite 800, Washington, D.C. 20024.

The Grants Management Center is the official place of receipt for all applications in response to this NOFA. A copy of your application is not required to be submitted to the local HUD Field Office. For ease of reference, the term ''local HUD Field Office'' will be used in this NOFA to mean the local HUD Field Office Hub and local HUD Field Office Program Center.

Hand Carried Applications. If you are hand delivering your application, your application is due no later than 8:45 am to 5 pm, Eastern time, on the application due date to the Office of Public and Indian Housing's Grants Management Center (GMC) in Washington, DC.

Mailed Applications. Applications sent by U.S. mail will be considered timely filed if postmarked on or before 12:00 midnight on the application due date and received on or within ten (10) days of that date at the GMC.

Applications Sent by Overnight/Express Mail Delivery. Applications sent by overnight delivery or express mail will be considered timely filed if received by the GMC before or on the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

For Application Kit. An application kit is not necessary for submitting an application in response to this NOFA. This NOFA contains all the information necessary for the submission of your application for voucher funding under the FUP.

For Further Information and Technical Assistance. Prior to the application due date, you may contact George C. Hendrickson, Housing Program Specialist, Room 4216, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–1872, ext. 4064. Subsequent to application submission, you may contact the GMC at (202) 358–0312, ext. 7675. (These are not toll-free numbers.) Persons with hearing or speech

impairments may access these numbers via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339 (this is a toll-free number).

II. Authority, Purpose, Amount Allocated (Available Funds/Maximum Voucher Request/Lottery), Underfunding Corrections, Unfunded Approvable Applications, Voucher Funding and Eligible Applicants

(A) Authority

The Family Unification Program is authorized by section 8(x) of the United States Housing Act of 1937 (42 U.S.C. 1437(X)). The Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, FY 2001 (Pub. L. 106–377, approved October 27, 2000), referred to in this NOFA as the FY 2001 HUD Appropriations Act, provides funding for the Family Unification Program.

(B) Purpose

The Family Unification Program is a program under which housing choice vouchers are provided to:

(1) Families for whom the lack of adequate housing is a primary factor in:

(a) The imminent placement of the family's child, or children, in out-of-home care; or

(b) The delay in the discharge of the child, or children, to the family from out-of-home care.

(2) Youths at least 18 years old and not more than 21 years old (have not reached 22nd birthday) who left foster care at age 16 or older and who do not have adequate housing. A FUP voucher issued to such a youth may only be used to provide housing assistance for the youth for a maximum of 18 months.

Vouchers awarded under the Family Unification Program are administered by PHAs under HUD's regulations for the Housing Choice Voucher Program (24 CFR part 982).

(C) Amount Allocated

(1) *Available Funds.* This NOFA announces the availability of approximately $5.1 million for new FY 2001 applications for the Family Unification Program which will provide assistance for about 900 FUP-eligible families and FUP-eligible youths. The $5.1 million will be used to fund applications for vouchers which can be used by PHAs for families for whom the lack of adequate housing is a primary actor in the separation, or the threat of imminent separation, of children from their families; and/or youths 18 to 21 years old who left foster care at age 16 or older and who lack adequate housing.

(2) *Maximum Voucher Request.* The total number of vouchers a PHA may apply for will be based upon the size of the PHA. PHAs with a housing choice voucher and certificate program of 2000 or more units under an ACC may apply for funding for a maximum of 100 units. PHAs with a housing choice voucher and certificate program of 500 units to 1999 units may apply for 50 units. PHAs with a housing choice voucher or certificate program of less than 500 units under an ACC may apply for a maximum of 25 units. PHAs not currently administering either a housing choice voucher or certificate program may apply for a maximum of 25 units.

(3) *Lottery.* A national lottery will be conducted to select approvable applications for funding if approvable applications are submitted in FY 2001 for more funding than is available under this NOFA. (See section IV(C) of this NOFA regarding the lottery procedures to be followed in the funding of approvable applications.)

(D) Underfunding Corrections

If prior to the award of FY 2001 FUP funding, HUD determines that any awardees under the FY 2000 Family Unification Program NOFA have been underfunded due to an error attributable to HUD, HUD will increase funding to the amount the awardee should have received. Funding of any such FY 2000 awardees will be dependent upon the availability of FY 2001 FUP funds.

(E) Unfunded Approvable Applications

PHAs with approvable applications that are not funded, in whole or in part, due to insufficient funds available under this FUP NOFA, shall be funded first in FY 2002 provided HUD receives additional appropriations for FUP for FY 2002.

(F) Voucher Funding

(1) *Determination of Funding Amount for the PHA's Requested Number of Vouchers.* HUD will determine the amount of funding that a PHA will be awarded under this NOFA based upon an actual annual per unit cost (except that for Moving to Work (MTW) agencies the per unit cost will be calculated in accordance with the agency's MTW Agreement) using the following three step process:

(a) HUD will extract the total expenditures for all the PHA's housing choice voucher and certificate programs and the unit months leased information from the most recent approved year end statement (form HUD–52681) that the PHA has filed with HUD. HUD will divide the total expenditures for all of the PHA's housing choice voucher and certificate programs by the unit months leased to derive an average monthly per unit cost.

(b) HUD will multiply the average monthly per unit cost by 12 (months) to obtain an average annual per unit cost.

(c) HUD will multiply the average annual per unit cost derived under paragraph (b) above by the Contract Rent Annual Adjustment Factor (with the highest cost utility included) to generate an adjusted annual per unit cost. For a PHA whose jurisdiction spans multiple annual adjustment factor areas, HUD will use the highest applicable annual adjustment factor.

(Note: Applicants who do not currently administer a housing choice voucher or certificate program shall have their voucher funding based upon the actual annual per unit costs of the PHA in the most immediate area administering a housing choice voucher or certificate program, using the three step process described immediately above.)

(2) *Preliminary Fee.* A preliminary fee of up to $500 per unit for preliminary (start-up) expenses will be paid to PHAs that have not previously administered their own housing choice voucher or certificate program and that are selected for funding under this NOFA. The preliminary fee will be provided to such PHAs only in their first year of administration of the housing choice voucher program.

(G) Eligible Applicants

Any PHA established pursuant to State law, including regional (multi-county) or State PHAs, may apply for funding under this NOFA. A PHA may submit only one application under this NOFA. This one application per PHA limit applies regardless of whether the PHA is a State or regional PHA, except in those instances where such a PHA has more than one PHA code number due to its operating under the jurisdiction of more than one HUD Field Office. In such instance, a separate application under each code shall be considered for funding with the cumulative total of vouchers applied for under the applications not to exceed the maximum number of vouchers the PHA is eligible to apply for under section II(C)(1) of this NOFA; *i.e.,* no more than the number of vouchers the same PHA would be eligible to apply for if it had only one PHA code number.

Two or more divisions within State government comprising separate PHAs shall require the State to determine which division shall submit an application to HUD under this funding announcement. As with other PHAs, only one application per PHA shall be

considered (see sole exception referenced immediately above).

A contract administrator that does not have an annual contributions contract (ACC) with HUD for housing choice vouchers or certificates, but constitutes a PHA under 24 CFR 791.102 by reason of its administering housing choice vouchers or certificates on behalf of another PHA, shall not be eligible to submit an application under this NOFA.

Indian Housing Authorities (IHA), Indian tribes and their tribally designated housing entities are not eligible to apply because the Native American Housing Assistance and Self-Determination Act of 1996 does not allow HUD to enter into new housing choice voucher annual contributions contracts (ACC) with IHAs after September 30, 1997.

Some PHAs currently administering the housing choice voucher and certificate programs have, at the time of publication of this NOFA, major program management findings from Inspector General audits, HUD management reviews, or Independent Public Accountant (IPA) audits that are open and unresolved or other significant program compliance problems. HUD will not accept applications for additional funding from these PHAs as contract administrators if, on the application deadline date, the findings are either not closed, or sufficient progress toward closing the findings has not been made to HUD's satisfaction. The PHA must also, to HUD's satisfaction, be making satisfactory progress in addressing any program compliance problems. If any of these PHAs want to apply for the Family Unification Program, the PHA must submit an application that designates another housing agency, nonprofit agency, or contractor that is acceptable to HUD. The PHA application must include an agreement by the other housing agency or contractor to administer the program for the new funding increment on behalf of the PHA and a statement that outlines the steps the PHA is taking to resolve the program findings and program compliance problems. Immediately after the publication of this NOFA, the Office of Public Housing in the local HUD Office will notify, in writing, those PHAs that are not eligible to apply because of outstanding management or compliance problems. Concurrently, the local HUD Field Office will provide a copy of each such written notification to the GMC. The PHA may appeal the decision if HUD has mistakenly classified the PHA as having outstanding management or compliance problems. Any appeal must be accompanied by conclusive evidence of HUD's error (i.e., documentation showing that the finding has been cleared or satisfactory progress toward closing the findings or addressing compliance problems has been made) and must be received prior to the application deadline. The appeal should be submitted to the local HUD Field Office where a final determination shall be made. Concurrently, the local HUD Field Office shall provide the GMC with a copy of its written response to the appeal, along with a copy of the PHA's written appeal. Major program management findings or program compliance problems are those that would cast doubt on the capacity of the PHA to effectively administer any new housing choice voucher funding in accordance with applicable regulatory and statutory requirements.

III. General Requirements and Requirements Specific To The Family Unification Program

(A) General Requirements

(1) Compliance With Fair Housing and Civil Rights Laws

All applicants must comply with all fair housing and civil rights laws, statutes, regulations, and executive orders as enumerated in 24 CFR 5.105(a). If an applicant: (a) has been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act of 1974, the applicant's application will not be evaluated under this NOFA if, prior to the application deadline, the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether the appropriate actions have been taken necessary to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(2) Additional Nondiscrimination Requirements

In addition to compliance with the civil rights requirements listed at 24 CFR 5.105(a), each successful applicant must comply with the nondiscrimination in employment requirements of Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*), the Equal Pay Act (29 U.S.C. 206(d), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*), Title IX of the Education Amendments Act of 1972, and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

(3) Affirmatively Furthering Fair Housing. Each successful applicant will have a duty to affirmatively further fair housing. Applicants will be required to identify the specific steps that they will take to:

(a) Examine the PHA's own programs or proposed programs, including an identification of any impediments to fair housing {identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice in its Consolidated Plan}; develop a plan to (i) address those impediments in a reasonable fashion in view of the resources available; and (ii) work with the local jurisdictions to implement any of the jurisdictions' initiatives to affirmatively further fair housing; and maintain records reflecting this analysis and actions.

(b) Remedy discrimination in housing; or

(c) Promote fair housing rights and fair housing choice.

Further, applicants have a duty to carry out the specific activities cited in their responses under this announcement to address affirmatively furthering fair housing.

(4) *Certifications and Assurances.* Each applicant is required to submit signed copies of Assurances and Certifications. The standard Assurances and Certifications are on Form HUD–52515, Funding Application, which includes the Equal Opportunity Certification, Certification Regarding Lobbying, and Certification Regarding Drug-Free Workplace Requirements.

(B) Requirements Specific to the Family Unification Program

(1) Eligibility

(a) *Family Unification Program eligible families and youths.* Each PHA must modify its selection preference system to permit the selection of those FUP-eligible families and/or FUP-eligible youths to which the PHA intends to issue FUP vouchers with available funding provided by HUD for this purpose. The terms ''FUP-eligible family'' and ''FUP-eligible youth'' are defined as follows:

(i) A FUP-eligible family is a family that the public child welfare agency has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the

family's child, or children, in out-of-home care, or in the delay of discharge of a child, or children, to the family from out-of-home care, and that the PHA has determined is eligible for a housing choice voucher.

(ii) A FUP-eligible youth is a youth that the public child welfare agency has certified is a youth at least 18 years old and not more than 21 years old (has not reached his/her 22nd birthday) who left foster care at age 16 or older and who does not have adequate housing, and that the PHA has determined is eligible for a housing choice voucher. (A FUP voucher issued to such a youth must not, by statute, be used to provide housing assistance for more than 18 months.)

(b) *Lack of Adequate Housing.* The lack of adequate housing means:

(i) A family or youth is living in substandard or dilapidated housing; or

(ii) A family or youth is homeless; or

(iii) A family or youth is displaced by domestic violence; or

(iv) A family or youth is living in an overcrowded unit; or

(v) A family or youth is living in housing not accessible to its disabled child or children due to the nature of the disability.

(c) *Substandard Housing.* A family or youth is living in substandard housing if the unit where the family or youth lives:

(i) Is dilapidated;

(ii) Does not have operable indoor plumbing;

(iii) Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth;

(iv) Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth;

(v) Does not have electricity, or has inadequate or unsafe electrical service;

(vi) Does not have a safe or adequate source of heat;

(vii) Should, but does not, have a kitchen; or

(viii) Has been declared unfit for habitation by an agency or unit or of government.

(d) *Dilapidated Housing.* A family or youth is living in a housing unit that is dilapidated if the unit where the family or youth lives does not provide safe and adequate shelter, and in its present condition endangers the health, safety, or well-being of a family or youth, or the unit has one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair or from serious damage to the structure.

(e) *Homeless.* A homeless family includes any person (including a youth) or family that:

(i) Lacks a fixed, regular, and adequate nighttime residence; and

(ii) Has a primary nighttime residence that is:

—A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);

—An institution that provides a temporary residence for persons intended to be institutionalized; or

—A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(f) *Displaced by Domestic Violence.* A family or youth is displaced by domestic violence if:

(i) The applicant has vacated a housing unit because of domestic violence; or

(ii) The applicant lives in a housing unit with a person who engages in domestic violence.

(iii) ''Domestic violence'' means actual or threatened physical violence directed against one or more members of the applicant by a spouse or other member of the applicant's household.

(g) *Involuntarily Displaced.* For a family or youth to qualify as involuntarily displaced because of domestic violence:

(i) The PHA must determine that the domestic violence occurred recently or is of a continuing nature; and

(ii) The applicant must certify that the person who engaged in such violence will not reside with the family or youth unless the PHA has given advance written approval. If the family or youth is admitted, the PHA may terminate assistance to the family or youth for breach of this certification.

(h) *Living in Overcrowded Housing.* A family or youth is considered to be living in an overcrowded unit if it meets the following separate criteria for a family or youth as follows:

(i) The family is separated from its child (or children) and the parent(s) are living in an otherwise standard housing unit, but, after the family is re-united, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or

(ii) The family is living with its child (or children) in a unit that is overcrowded for the entire family and this overcrowded condition may result in the imminent placement of its child (or children) in out-of-home care.

(iii) The youth is living in a unit that is overcrowded.

For purposes of this paragraph (h), the PHA may determine whether the unit is ''overcrowded'' in accordance with PHA subsidy standards.

(i) *Detained Family Member.* A FUP-eligible family or FUP-eligible youth's family may not include any person imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

(j) *Public child welfare agency (PCWA).* PCWA means the public agency that is responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family, or that a youth left foster care at age 16 or older and is at least 18 years old and not more than 21 years old.

(2) PHA Responsibilities

PHAs must:

(a) Accept families and youths certified by the PCWA as eligible for the Family Unification Program. The PHA, upon receipt of the PCWA list of families and youths currently in the PCWA caseload, must compare the names with those of families and youths already on the PHA's housing choice voucher waiting list. Any family or youth on the PHA's housing choice voucher waiting list that matches with the PCWA's list must be assisted in order of their position on the waiting list in accordance with PHA admission policies. Any family or youth certified by the PCWA as eligible and not on the housing choice voucher waiting list must be placed on the waiting list. If the PHA has a closed housing choice voucher waiting list, it must reopen the waiting list to accept a Family Unification Program applicant family or youth who is not currently on the PHA's housing choice voucher waiting list;

(b) Determine if any families with children, or youths age 18 through 21 on its housing choice voucher waiting list are living in temporary shelters or on the street and may qualify for the Family Unification Program, and refer such applicants to the PCWA;

(c) Determine if families with children, or youths age 18 through 21 referred by the PCWA are eligible for housing choice voucher assistance and place eligible families/youths on the housing choice voucher waiting list;

(d) Amend the administrative plan in accordance with applicable program regulations and requirements;

(e) Administer the vouchers in accordance with applicable program regulations and requirements;

(f) Assure the quality of the evaluation that HUD intends to conduct on the Family Unification Program and cooperate with and provide requested data to the HUD office or HUD-approved contractor responsible for program evaluation; and

(g) Comply with the actions to be taken by the PHA as specified in the memorandum of understanding (MOU) executed by the PHA and the PCWA. {See paragraph IV (B)(3) regarding the MOU.}

(3) Public Child Welfare Agency (PCWA) Responsibilities

A public child welfare agency that has agreed to participate in the Family Unification Program must:

(a) Establish and implement a system to identify FUP-eligible families and FUP-eligible youths within the agency's caseload and to review referrals from the PHA;

(b) Provide written certification to the PHA that a family qualifies as a FUP-eligible family, or that a youth qualifies as a FUP-eligible youth, based upon the criteria established in section 8(x) of the United States Housing Act of 1937, and this notice;

(c) Commit sufficient staff resources to ensure that eligible families and youths are identified and determined eligible in a timely manner and to provide follow-up supportive services after these families and youths lease units;

(d) Cooperate with the evaluation that HUD intends to conduct on the Family Unification Program, and submit a certification with the PHA's application for Family Unification funding indicating that the PCWA will agree to cooperate with and provide requested data to the HUD office or HUD-approved contractor having responsibility for program evaluation; and

(e) Comply with the actions to be taken by the PCWA as specified in the memorandum of understanding (MOU) executed between the PCWA and the PHA. {See section IV(B)(3) regarding the MOU.}

(4) Housing Choice Voucher Assistance

The Family Unification Program provides funding for housing assistance under the Housing Choice Voucher Program. PHAs must administer this program in accordance with HUD's regulations governing the Housing Choice Voucher Program.

(5) Turnover

If a voucher issued to a FUP-eligible family or FUP-eligible youth under this program is terminated, the voucher must be reissued to either another FUP-eligible family or FUP-eligible youth. FUP vouchers must continue to be issued to such families and youths for 5 years from the initial date of execution of the Annual Contributions Contract subject to the availability of renewal funding. Since the vouchers funded under the FUP are for use by PHAs for either FUP-eligible families or FUP-eligible youths and are not designated by the PHA in its application (or HUD in the award of FUP funding), as being only for FUP-eligible families and/or FUP-eligible youths, FUP vouchers may be used by PHAs for such families and youths based upon local needs and as is consistent with the PHA's administrative plan.

A FUP voucher issued to a youth age 18 to 21 may not be used to provide housing assistance for that youth for a period of more than 18 months, as per the statutory requirements of Section 8(x)(2) of the U.S. Housing Act of 1937, as amended.

IV. Application Selection Process For Funding

(A) Rating and Ranking

HUD's Grants Management Center is responsible for rating the applications under the selection criteria in this NOFA, and is responsible for the selection of FY 2001 applications that will receive consideration for assistance under the Family Unification Program. The Grants Management Center will initially screen all applications and determine any technical deficiencies based on the application submission requirements.

Each application submitted in response to this NOFA, in order to be eligible for funding, must receive at least 20 points for Threshold Criterion 2, Efforts of PHA to Provide Area-Wide Housing Opportunities for Families. Each application must also meet the requirements for Threshold Criterion 1, Unmet Housing Needs; Threshold Criterion 3, Memorandum of Understanding (MOU)—Coordination between PHA and Public Child Welfare Agency to Identify and Assist FUP-Eligible Families and FUP-Eligible Youths; and Threshold Criterion 4, Public Child Welfare Agency Statement of Need for Family Unification Program.

(B) Threshold Criteria

(1) Threshold Criterion 1: Unmet Housing Needs

This criterion requires the PHA to demonstrate the need for an equal or greater number of housing choice vouchers than it is requesting under this NOFA. The PHA must assess and document the unmet housing need for its geographic jurisdiction of: (a) families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care, or in a delay of discharge of a child or children to the family from out-of-home care, and/or (b) youths at least 18 years old and not more than 21 years old (have not reached his/her 22nd birthday) who left foster care at age 16 or older and who do not have adequate housing. The results of the assessment must include a comparison of the estimated unmet housing needs of such families and youths to the Consolidated Plan covering the PHA's jurisdiction. The demonstration of need and comparison to the Consolidated plan should be based on those FUP-eligible families, and/or FUP-eligible youths that the PHA is basing its voucher request upon and to which it intends to issue FUP vouchers.

(2) Threshold Criterion 2: Efforts of PHA to Provide Area-Wide Housing Opportunities for Families (50 Points)

(a) *Description:* Many PHAs have undertaken voluntary efforts to provide area-wide housing opportunities for families. The efforts described in response to this criterion must be beyond those required by federal law or regulation such as the portability provisions of the Housing Choice Voucher Program.

(b) *Rating and Assessment:* The Grants Management Center will assign 10 points for any of the following assessments for which the PHA qualifies and add the points for all the assessments (maximum of 50 points) to determine the total points for this criterion:

(i) 10 points—Assign 10 points if the PHA documents that it either absorbs all portable housing choice voucher families, or participates in an area-wide exchange program where all PHAs absorb portable housing choice voucher families.

(ii) 10 Points—Assign 10 points if the PHA documents that PHA staff will provide housing counseling for families that want to move to low-poverty or non-minority areas, or if the PHA has established a contractual relationship with a nonprofit agency or a local governmental entity to provide housing counseling for families that want to move to low-poverty or non-minority areas. The five PHAs approved for the FY 1993 Moving to Opportunity (MTO) for Fair Housing Demonstration and any other PHAs that receive counseling funds from HUD (e.g., in settlement of litigation involving desegregation or demolition of public housing, regional

opportunity counseling, or mixed population projects) may qualify for points under this assessment, but these PHAs must identify all activities undertaken, other than those funded by HUD, to expand housing opportunities.

(iii) 10 Points—Assign 10 points if the PHA documents that it participates with other PHAs in using a metropolitan wide or combined waiting list for selecting participants for the housing choice voucher program.

(iv) 10 Points—Assign 10 points if the PHA documents that it has implemented other initiatives that have resulted in expanding housing opportunities in areas that do not have undue concentrations of poverty or minority families.

(v) 10 Points—Assign 10 points if the PHA is using housing choice vouchers or certificates (not part of a previously HUD-approved FUP) to create a FUP or to expand upon its existing FUP.

(3) Threshold Criterion 3: Memorandum of Understanding (MOU)—Coordination Between PHA and Public Child Welfare Agency to Identify and Assist FUP-Eligible Families and FUP-Eligible Youths

The application must include an MOU, executed by the chief executive officer of the PHA and the PCWA, identifying the actions that the PHA and the PCWA will take to identify and assist FUP-eligible families and/or FUP-eligible youths, and the resources that each organization will commit to the FUP. *The MOU must clearly address, at a minimum, the following:*

(a) PHA responsibilities as outlined in paragraph III.(B)(2) of this NOFA.

(b) PCWA responsibilities as outlined in paragraph III.(B)(3) of this NOFA.

(c) The assistance the PCWA will provide to families and youths, as appropriate, in locating housing units.

(d) The PCWA's past experience in administering a similar program.

(e) Past PCWA and PHA cooperation in administering a similar program.

(f) If the PHA intends to issue FUP vouchers to FUP-eligible youths, the services to be provided to such youths by the PCWA, or by another agency/organization under agreement/contract to the PCWA to provide the services, which at a minimum must include the following for a period of not less than the 18 months a FUP-eligible youth is receiving rental assistance through the use of a FUP voucher:

(i) Basic life skills information/counseling on money management, use of credit, housekeeping, proper nutrition/meal preparation; and access to health care (e.g., doctors, medication, and mental and behavioral health services).

(ii) Counseling on compliance with rental lease requirements and with housing choice voucher program participant requirements, including assistance/referrals for assistance on security deposits, utility hook-up fees, and utility deposits.

(iii) Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a FUP voucher.

(iv) Job preparation and attainment counseling (where to look/how to apply, dress, grooming, relationships with supervisory personnel, etc.).

(v) Educational and career advancement counseling regarding attainment of general equivalency diploma (GED); attendance/financing of education at technical school, trade school or college; including successful work ethic and attitude models.

(vi) Participation of FUP-eligible youths in the assessment and implementation of actions to address their needs, including the development of an individual case plan on each youth for services to be received and the youth's commitment to the plan (youth required to sign a service plan agreeing to attend counseling/training sessions and to take other actions as deemed appropriate to the youth's successful transition from foster care). Note: A youth's failure to fulfill their obligations under the service plan is not grounds to terminate the youth from the housing choice voucher program.

The MOU shall be considered by HUD and the signatories (the PCWA and the PHA) as a binding agreement. As such, the document should be very specific. For instance, the PCWA must clearly indicate the amount of time and staff resources the PCWA will commit on a continuing basis to identifying the FUP-eligible families and/or FUP-eligible youths to which FUP vouchers are intended to be issued; the length of time it will provide follow-up support services to these FUP-eligible families and/or FUP-eligible youths after they receive their vouchers; etc. An MOU that does not contain the information required in this Threshold Criterion 3 will be deemed unacceptable and thereby the PHA's application for the Family Unification Program shall be determined to be unacceptable for funding.

(4) Threshold Criterion 4: Public Child Welfare Agency Statement of Need for Family Unification Program

The application must include a statement by the PCWA describing the need in the area to be served for a program providing assistance to (a) families for whom lack of adequate housing is a primary factor in the placement of the family's children in out-of-home care or in the delay of discharge of the children to the family from out-of-home care, and/or (b) youths age 18 to 21 who left foster care at age 16 or older and who lack adequate housing, as evidenced by the caseload of the public child welfare agency. The PCWA must adequately demonstrate that there is a need in the PHA's jurisdiction for the Family Unification Program that is not being met through existing programs by indicating the number of FUP-eligible families who currently have children in danger of being placed in out-of-home or who cannot be returned from out-of-home care due to inadequate housing, and/or the number of youths at least 18 years old but not more than 21 years old (have not yet reached their 22nd birthday) who left foster care at age 16 or older and who do not have adequate housing. The narrative must include specific information relevant to the area to be served, about homelessness, family violence resulting in involuntary displacement, number and characteristics of families who are experiencing the placement of children in out-of-home care or the delayed discharge of children from out-of-home care as the result of inadequate housing, and/or the number and characteristics of youths age 18 through 21 released from foster care at age 16 or older who do not have adequate housing, and the PCWA's past experience in obtaining housing through HUD assisted programs and other sources for families and youths lacking adequate housing.

The PCWA's statement of need should be based solely on those types of eligible FUP voucher participants; i.e., FUP-eligible families and/or FUP-eligible youths to which the PHA may issue FUP vouchers.

(C) Funding FY 2001 Applications

After the Grants Management Center has screened PHA applications and disapproved any applications unacceptable for further processing (see section VI(B) of this NOFA), the Grants Management Center will review and rate all approvable applications under section V, Application Submission Requirements, of this NOFA.

The Grants Management Center will select eligible PHAs to be funded based on a lottery in the event approvable applications submitted in FY 2001 are received for more funding than the approximately $5.1 million available under this NOFA. All FY 2001 PHA

applications identified by the Grants Management Center as meeting the requirements of this NOFA will be eligible for the lottery selection process.

If the cost of funding approvable applications exceeds available funds, HUD will limit the number of FY 2001 applications selected for any State to no more than 10 percent of the budget authority made available under this NOFA in order to achieve geographic diversity. If establishing this geographic limit results in unspent budget authority, however, HUD may modify this limit to assure that all available funds are used.

Applications will be funded in full for the number of vouchers requested by the PHA in accordance with the NOFA. If the remaining voucher funds are insufficient to fund the last PHA application in full, however, the Grants Management Center may recommend funding that application to the extent of the funding available and the applicant's willingness to accept a reduced number of vouchers. Applicants that do not wish to have the size of their programs reduced may indicate in their applications that they do not wish to be considered for a reduced award of funds. The Grants Management Center will skip over these applicants if assigning the remaining funding would result in a reduced funding level.

V. Application Submission Requirements

(A) Form HUD–52515

Funding Application, form HUD–52515, must be completed and submitted. This form includes all the necessary certifications for Fair Housing, Drug-Free Workplace and Lobbying Activities. PHAs are requested to enter their housing authority code number (for example, CT002) as well as their electronic mail address, telephone number, and facsimile telephone number in the same place at the top of the form where they are also to enter the PHA's name and mailing address. Section C of the form should be left blank. PHAs may obtain a copy of form HUD–52515 from the local HUD Field Office or may download it from the HUD Home page on the internet's world wide web (http://www.hud.gov). On the HUD website click on ''handbooks and forms,'' then click on ''forms,'' next click on ''HUD–5'' and then click on ''HUD–52515.'' The form must be completed in its entirety, with the exception of Section C, signed and dated.

(B) Letter of Intent and Narrative

Funding is limited, and HUD may only have enough funds to approve a smaller amount than the number of vouchers requested. The PHA must state in its cover letter the number of vouchers it is requesting and whether it will accept a smaller number of vouchers and the minimum number of vouchers it will accept. The cover letter must also include a statement by the PHA certifying that the PHA has consulted with the agency or agencies in the State responsible for the administration of welfare reform to provide for the successful implementation of the State's welfare reform for families and youths receiving rental assistance under the family unification program. The application must include an explanation of how the application meets the requirements for Threshold Criteria 1 through 4 in sections IV (A) and (B) of this NOFA. The application must also include a MOU as described in paragraph IV.(B)(3) of this NOFA.

The PCWA serving the jurisdiction of the PHA is responsible for providing the information for Threshold Criterion 4, PCWA Statement of Need for Family Unification Program, to the PHA for submission with the PHA application. This should include a discussion (as appropriate to whether the PHA intends to issue FUP vouchers to FUP-eligible families and/or FUP-eligible youths) of the case-load of the PCWA and information about homelessness, family violence resulting in involuntary displacement, number and characteristics of families who are experiencing the placement of children in out-of-home care or the delayed discharge of children from out-of-home care as a result of inadequate housing, the number and characteristics of youths age 18 to 21 years old who left foster care at age 16 or older and who lack adequate housing, and the PCWA's experience in obtaining housing through HUD assisted housing programs and other sources for families and youths lacking adequate housing. A State-wide Public Child Welfare Agency must provide information on Threshold Criterion 4, PCWA Statement of Need for Family Unification Program, to all PHAs that request such information; otherwise, HUD will not consider applications from any PHAs with the State-wide PCWA as a participant in its program.

(C) Evaluation Certifications

The PHA and the PCWA, in separate certifications, must state that the PHA and Public Child Welfare Agency agree to cooperate with HUD and provide requested data to the HUD office or HUD-approved contractor delegated the responsibility for the program evaluation. No specific language for this certification is prescribed by HUD.

(D) Statement Regarding the Steps the PHA Will Take to Affirmatively Further Fair Housing

The areas to be addressed in the PHA's statement should include, but not necessarily be limited to:

(1) An examination of the PHA's own programs or proposed programs, including an identification of any impediments to fair housing [identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice—in its Consolidated Plan]; and a description of a plan developed to (a) address those impediments in a reasonable fashion in view of the resources available, and (b) work with local jurisdictions to implement any of the jurisdictions' initiatives to affirmatively further fair housing; and the maintenance of records reflecting this analysis and actions;

(2) remedy discrimination in housing; or

(3) promote fair housing rights and fair housing choice.

(E) Moving to Work (MTW) PHA Information and Certification

See section VI(B)(2)(c) of this NOFA regarding the information to be submitted by a MTW PHA required to report under the Section 8 Management Assessment Program (SEMAP) but not meeting the 95 percent lease-up or budget authority utilization requirements, or the lease-up or budget authority utilization certification to be submitted by an MTW PHA not required to report under SEMAP.

VI. Corrections To Deficient Family Unification Applications

(A) Acceptable Applications

An acceptable application is one which meets all of the application submission requirements in section V of this NOFA and does not fall into any of the categories listed in section VI (B) of this NOFA. The Grants Management Center will initially screen all applications and notify PHAs of technical deficiencies by letter.

With respect to correction of deficient applications, HUD may not, after the application due date and consistent with HUD's regulations in 24 CFR part 4, subpart B, consider any unsolicited information an applicant may want to provide. HUD may contact an applicant to clarify an item in the application or

to correct technical deficiencies. Please note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of a response to any selection factors. In order not to unreasonably exclude applications from being rated and ranked, HUD may contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. Examples of curable (correctable) technical deficiencies include failure to submit the proper certifications or failure to submit an application that contains an original signature by an authorized official. In each case under this NOFA, the GMC will notify the applicant in writing by describing the clarification or technical deficiency. The applicant must submit clarifications or corrections of technical deficiencies in accordance with the information provided by the GMC so as to be received by the GMC within 14 calendar days of the date of receipt of the HUD notification. (If the due date falls on a Saturday, Sunday, or Federal holiday, your correction must be received by HUD on the next day that is not a Saturday, Sunday, or Federal holiday.) If the deficiency is not corrected within this time period, HUD will reject the application as incomplete, and it will not be considered for funding.

(B) Unacceptable Applications

(1) After the 14-calendar day technical deficiency correction period, the Grants Management Center will disapprove all PHA applications that the Grants Management Center determines are not acceptable for processing. The Grant Management Center's notification of rejection letter must state the basis for the decision.

(2) Applications from PHAs that fall into any of the following categories will not be processed:

(a) Applications that do not meet the fair housing and civil rights compliance threshold requirements of section III(A)(1) of this NOFA, Compliance With Fair Housing and Civil Rights Laws.

(b) The PHA has major program management findings in an Inspector General audit, HUD management review, or independent public accountant (IPA) audit for its voucher or certificate programs that are not closed or on which satisfactory progress in resolving the findings is not being made; or program compliance problems for its voucher or certificate programs on which satisfactory progress is not being made. The only exception to this category is if the PHA has been identified under the policy established in section II(E) of this announcement and the PHA makes application with a designated contract administrator. Major program management findings or program compliance problems are those that would cast doubt on the capacity of the PHA to effectively administer any new housing choice voucher funding in accordance with applicable HUD regulatory and statutory requirements.

(c) The PHA has failed to achieve a lease-up rate of 95 percent for its combined certificate and voucher units under contract for its fiscal year ending in 1999. Category (c) may be passed, however, if the PHA achieved a combined certificate and voucher budget authority utilization rate of 95 percent or greater for its fiscal year ending in 1999. In the event the PHA is unable to meet either of these percentage requirements, the PHA may still pass category (c) if the PHA submits information to the Grants Management Center, as part of its application, demonstrating that the PHA was able to either increase its combined certificate and voucher lease-up rate to 95 percent or greater for its fiscal year ending in 2000, or was able to increase combined certificate and voucher budget authority utilization to 95 percent or more for its fiscal year ending in 2000. PHAs determined by HUD to have passed either the 95 percent lease-up, or 95 percent budget authority utilization requirement for their fiscal year ending in 1999 will be listed on the following HUD website: http://www.hud.gov/cio/grants/fundsavail.html, along with this NOFA. A PHA not listed must either submit information (following the format of Appendix A of this NOFA) in its application supportive of its 95 percent lease-up or 95 percent budget authority utilization performance for its fiscal year ending in 2000, or submit information (following the format of Appendix A of this NOFA) as part of its application supportive of its contention that it should have been included among those PHAs listed by HUD as having achieved either a 95 percent lease-up rate or 95 percent budget authority utilization rate for fiscal years ending in 1999. Appendix A of this NOFA indicates the methodology and data sources used by HUD to calculate the lease-up and budget authority utilization percentage rates for PHAs with fiscal years ending in 1999. Any PHA wishing to submit information to the Grants Management Center in connection with its 1999 fiscal year or 2000 fiscal year for the purposes described immediately above (so as to be eligible under category (c) to submit an application) will be required to use the same methodology and data sources indicated in Appendix A.

Moving to Work (MTW) agencies that are required to report under the Section 8 Management Assessment Program (SEMAP) shall be held to the 95 percent lease-up and budget authority utilization requirements referenced above, except where such a MTW agency provides information in its application demonstrating to HUD that a lower percentage is the result of the implementation of specific aspects of its program under its MTW Agreement with HUD. MTW agencies which are not required to report under SEMAP must submit a certification with their application certifying that they are not required to report under SEMAP, and that they meet the 95 percent lease-up or budget authority utilization requirements.

PHAs not currently administering a certificate or voucher program, or who received voucher funding for the first time during the past 12 months will not be subject to the 95 percent lease-up or budget authority utilization requirements of this section (c).

(d) The PHA is involved in litigation and HUD determines that the litigation may seriously impede the ability of the PHA to administer the vouchers.

(e) A PHA's application that does not comply with the requirements of 24 CFR 982.102 and the requirements of this NOFA after the expiration of the 14-calendar-day technical deficiency correction period.

(f) The PHA's application was submitted after the application due date.

(g) The application was not submitted to the official place of receipt as indicated in the paragraph entitled ''Address for Submitting Applications'' at the beginning of this NOFA.

(h) The applicant has been debarred or otherwise disqualified from providing assistance under the housing choice voucher program.

(i) The applicant has failed to achieve a minimum 85 percent submission rate for housing choice voucher and certificate resident records to HUD's Multifamily Tenant Characteristics System (MTCS), as set forth in 24 CFR part 908 and Notices PIH 98–3, 99–2, and 2000–13, for the period ending December 1999. In the event a PHA did not achieve an 85 percent rate of reporting under MTCS for this period, the PHA will still be considered to have passed the threshold if it (1) subsequently achieved a minimum reporting rate of not less than 85 percent for the period ended December 2000, or (2) requested forbearance from HUD under the applicable procedures in Notice PIH 2000–13 for the semi-annual

assessment period ending December 2000, contingent upon HUD approval of the forbearance request.

VII. Findings and Certifications

(A) Paperwork Reduction Act Statement

The Housing Choice Voucher Program information collection requirements contained in this NOFA have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0169. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

(B) Environmental Impact

In accordance with 24 CFR 50.19(b)(11) and (15) (see also 24 CFR 58.35(b)(1) and (5)), tenant-based rental activities and activities to assist homeownership of existing units under this program are categorically excluded from the requirements of the National Environmental Policy Act of 1969 (NEPA) and are not subject to environmental review under most of the related laws and authorities. This NOFA provides funding for these activities under 24 CFR part 982, which contains limited environmental provisions concerning only homeownership activities in 24 CFR 982.305(b)(4) and 982.626(c), because of the categorical exclusion of the rental and homeownership activities from environmental review. This NOFA does not alter these environmental provisions. Accordingly, under 24 CFR 50.19(c)(5), issuance of this NOFA is also categorically excluded from environmental review under NEPA.

(C) Catalog of Federal Domestic Assistance Numbers

The Federal Domestic Assistance number for this program is 14.857.

(D) Federalism Impact

Executive Order 13132 (captioned ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. None of the provisions in this NOFA will have federalism implications and they will not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order. As a result, the notice is not subject to review under the Order.

(E) Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the regulations in 24 CFR part 4, subpart A contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. HUD will comply with the documentation, public access, and disclosure requirements of section 102 with regard to the assistance awarded under this NOFA, as follows:

(1) Documentation and public access requirements

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

(2) Disclosures

HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(F) Section 103 HUD Reform Act

HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics at (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel.

(G) Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF–LLL disclosing such payments must be submitted.

The Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995), which repealed section 112 of the HUD Reform Act, requires all persons and entities who lobby covered executive or legislative branch officials to register with the Secretary of the Senate and the Clerk of the House of

Representatives and file reports concerning their lobbying activities.

Dated: June 15, 2001.

Paula O. Blunt,

Acting General Deputy Assistant Secretary for Public and Indian Housing.

Appendix A

Methodology for Determining Lease-up and Budget Authority Utilization Percentage Rates

Using data from the HUDCAPS system, HUD determined which PHAs met the 95% budget authority utilization or 95% lease-up criteria. The data used in the determination was based on PHA fiscal years ending in 1999. The budget authority utilization and lease-up rates were determined based upon the methodology indicated below.

Budget Authority Utilization

Percentage of budget authority utilization was determined by comparing the total contributions required to the annual budget authority (ABA) available for the PHA 1999 year combining the certificate and voucher programs.

Total contributions required were determined based on the combined actual costs approved by HUD on the form HUD–52681, Year End Settlement Statement. The components which make up the total contributions required are the total of housing assistance payments, ongoing administrative fees earned, hard to house fees earned, and IPA audit costs. From this total any interest earned on administrative fees is subtracted. The net amount is the total contributions required.

ABA is the prorated portion applicable to the PHA 1999 year for each funding increment which had an active contract term during all or a portion of the PHA year.

Example

PHA ABC

[Fiscal year 10/1/98 through 9/30/99]

HUD 52681 Approved Data:	
HAP	$2,500,000
Administrative fee	250,000
Hard to house fee	1,000
Audit	2,000
Total	2,753,000
Interest earned on administrative fee	($2,500)
Total contributions required	2,750,500

CALCULATION OF ANNUAL BUDGET AUTHORITY

Increments	Contract Term	Total BA	
ABA			
001	11/01/98–10/31/99	$1,300,000	$1,191,667
002	01/01/99–12/31/99	1,200,000	900,000
003	04/01/99–03/31/00	950,000	475,000
004	07/01/99–06/30/00	1,500,000	375,000
Totals		4,950,000	2,941,667

BUDGET AUTHORITY UTILIZATION

Total contributions required divided by	$2,750,000
Annual budget authority equals	2,941,667
Budget Authority Utilization	93.5%

Lease-up Rate

The lease-up rate was determined by comparing the reserved units (funding increments active as of the end of the PHA 1999 year) to the unit months leased (divided by 12) reported on the combined HUD 52681, Year End Settlement Statement(s) for 1999.

Active funding increments awarded by HUD for special purposes such as litigation, relocation/replacement, housing conversions, Welfare to Work, and new units awarded to the PHA during the last twelve months were excluded from the reserved units as the Department recognizes that many of these unit allocations have special requirements which require extended periods of time to achieve lease-up.

Example

Increments	Contract Term	Units
001	11/01/98–10/31/99	242
002	01/01/99–12/31/99	224
003	04/01/99–03/31/00	178
004	07/01/99–06/30/00	280
Totals		924
Increment 003 litigation		(178)
Adjusted contract units		746

Unit months leased reported by PHA	8,726
Divided by 12	727
Units leased	727
Lease-up rate:	
Units leased	727
Divided by adjusted contract units equals	746
Lease-up rate	97.5%

[FR Doc. 01–17273 Filed 7–10–01; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Fire protection of electrical system components; comments due by 7-16-01; published 5-15-01

Class D airspace; comments due by 7-20-01; published 6-5-01

Class E airspace; comments due by 7-18-01; published 6-18-01

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LIST OF PUBLIC LAWS

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S. 657/P.L. 107–19

To authorize funding for the National 4-H Program Centennial Initiative. (July 10, 2001; 115 Stat. 153)

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